



THE PAIUTE INDIAN TRIBE OF UTAH

440 North Paiute Drive • Cedar City, Utah 84721 • (435) 586-1112 • Fax (435) 867-2659

TRIBAL COUNCIL MEMORANDUM

TO: *The Utah Paiute Tribal Housing Authority*

FROM: *The Paiute Indian Tribe of Utah Tribal Council*

Date: *January 17, 2020*

RE: *Utah Paiute Tribal Housing Authority*

The Paiute Indian Tribe of Utah Tribal Council currently is unable to meet with the Utah Paiute Tribal Housing Authority on the dates that the Utah Paiute Tribal Housing Authority proposed. As the Governing Body, The Paiute Indian Tribe of Utah Council tried to offer sufficient dates to meet based on the utmost urgency and was declined by the Utah Paiute Tribal Housing Authority Board of Commissioners.

The Paiute Indian Tribe of Utah Tribal Council would have like to address the following:

- The Final Monitoring Report Findings and the deficiencies listed:
 - September 20, 2018, ONAP Letter
 - March 11, 2019, ONAP Letter
 - April 15, 2019, ONAP Letter
 - June 4, 2019, ONAP Letter
 - December 16, 2019, ONAP Letter
- Tribal Council Memorandum July 25, 2019 and the supporting documents
- Investigation of Misuse of Funds, a follow-up meeting was never schedule
 - November 8, 2018, PITU Letter to UPTHA Board of Commissioners
 - November 20, 2018, Jensen Law Office Letter to PITU
 - December 31, 2018, Jensen Law Office Letter to PITU
 - January 4, 2019. Report of Investigation of Allegations
- PITU Resolution 2019-30, Tribal Council Authorization to Contact Legal in Response to Request of the Office of Inspector General. We know this is an on-going investigation and commenting is limited.
- 2021 Agreement with PITU: The agreement we discussed last year and is a standard agreement that we make the Bands sign when entering into any grant proposals.
- Survey Election of PITU Membership Regarding Utah Paiute Tribal Housing Authority

All the documents listed above including this memo will be listed on www.utahpaiutes.org under Membership Info. Tab, Utah Paiute Tribal Housing Authority, for tribal members to view, starting Wednesday, January 22, 2020.

We will be surveying the tribal membership with the survey election starting Friday, January 24, 2020 and ending February 26, 2020 regarding the relationship between the Utah Paiute Tribal Housing Authority and the Paiute Indian Tribe of Utah.

If you have any further questions for the PITU Tribal Council, please write all correspondence to cgarcia@utahpaiutes.org



U. S. Department of Housing and Urban Development

Northern Plains Office of
Native American Programs

Region VIII, Denver
1670 Broadway Street
Denver, Colorado 80202-4801

Phone: 303-672-5465
Fax: 303-672-5003
Web: www.hud.gov

CERTIFIED MAIL – RETURN RECEIPT REQUESTED

September 20, 2018

Mr. James Emery
Executive Director
Utah Paiute Tribal Housing Authority
565 North 100 East
Cedar City, UT 84721-6181

SUBJECT: Status of Final Monitoring Report Findings – Revised Recommended Corrective Actions

Dear Mr. Emery:

On June 28, 2017, a Final Monitoring Report (FMR) was issued by the Northern Plains Office of Native American Programs (NPONAP) as a result of the onsite monitoring review of the Indian Housing Block Grant (IHBG) program, administered by the Utah Paiute Tribal Housing Authority (UPTHA). Last month, NAPONAP met with UPTHA to discuss the status of the only open monitoring finding. Both parties agreed that technical assistance was needed to complete the outstanding recommended corrective actions (RCAs). UPTHA has worked closely with NAPONAP to request technical assistance through a contractor. NAPONAP is now revising the remaining RCAs and extending the target date for completion to further ensure successful resolution of the open finding and ongoing compliance.

Finding #2015-01: Missing Environmental Reviews

To address this finding under the original Recommended Corrective Actions (RCAs), UPTHA was required to submit documentation to NAPONAP demonstrating UPTHA had completed compliant environmental reviews. To date, UPTHA staff has attended HUD-sponsored ER training and requested technical assistance from NAPONAP on environmental review. A contractor is expected to be onsite at UPTHA in Fall 2018 to provide this technical assistance. In consideration of the difficulty with completing the original RCAs in a timely manner and UPTHA's request for technical assistance, NAPONAP is revising the RCAs and extending the target due date to complete the RCAs.

Revised Recommended Corrective Actions: The NAPONAP recommends that the UPTHA:

1. Identify the staff persons responsible for conducting environmental reviews. Ensure that they complete all of the online HUD Web-Based Instructional System for Environmental Review (WISER) training modules, except "Getting Started: Part 50." The WISER modules are available

here: <https://www.hudexchange.info/trainings/wiser/>. Submit the name of the persons and provide a copy of the training certificates verifying they completed the training modules to NPONAP.

2. Develop a process and associated procedures for the preparation of the Environmental Review Records (ERRs) in order to accomplish better quality control, ensuring completeness and adequate documentation of the ERRs. Such procedures should address ensuring that funds are not committed to a project prior to completion of environmental review, and should outline staff responsibilities regarding the environmental review process and submission of the Finding of No Significant Impact (FONSI) and RROF to NPONAP for applicable activities. Provide a copy of these procedures to NPONAP.
3. Once WISER training is completed, prepare environmental reviews in the HUD Environmental Review Online System (HEROS) for all Program Year (PY) 2018 activities identified in the current year's IHP (except for ongoing activities at existing HUD-assisted housing, which are covered below by RCA 4). HEROS can be accessed at <https://www.hudexchange.info/programs/environmental-review/heros/>. The ERRs should contain a complete and clear project description with adequate supporting documentation utilizing appropriate formats and worksheets. The ERRs should cover all applicable regulatory areas and contain all required environmental review documents such as public notices and written determinations. The documentation should also include any decision-making rationale and actions pertaining to a particular project. Submit the prepared reviews to a TA provider or NPONAP for technical assistance review through the "assign" feature in HEROS. Once the technical assistance review is finished, submit documentation verifying completion of the reviews to NPONAP (e.g., the RROF, if applicable, or a certification that the Responsible Entity has determined the project is exempt).
4. Once WISER training is completed, prepare environmental reviews in HEROS for all existing HUD-assisted housing sites to address the ongoing maintenance and rehabilitation activities that are expected to occur over the next five (5) years (including ongoing maintenance and rehabilitation activities that are identified in the current IHP). The ERRs should contain a complete and clear project description that defines the maximum anticipated scope of activities over the next 5 years with adequate supporting documentation utilizing appropriate formats and worksheets. For HUD-assisted housing sites in established communities, consider completing one environmental review per community. The project description for a community review would need to identify the geographic area and each HUD-assisted housing unit in that area, in addition to defining the anticipated activities. The ERRs should cover all applicable regulatory areas and contain all required environmental review documents such as public notices and written determinations. The documentation should also include any decision-making rationale and actions pertaining to a particular project. Submit the prepared reviews to a TA provider or NPONAP for technical assistance review through the "assign" feature in HEROS. Once the technical assistance review is finished, submit documentation verifying completion of the reviews to NPONAP (e.g., the RROF, if applicable, or a certification that the Responsible Entity has determined the project is exempt).

Target Date for Completion: January 31, 2019

NPONAP thanks the UPTHA for its continued efforts to address this open monitoring finding. If you have any questions, please contact Amber Hunter, Lead Grants Evaluation Specialist, at (303) 839-2657, or via email at Amber.Hunter@hud.gov.

Sincerely,



Melissa West
Director, Grants Evaluation Division

cc: Honorable Tamra Borchardt-Slayton, Chairperson
Paiute Indian Tribe of Utah



U. S. Department of Housing and Urban Development

Northern Plains Office of
Native American Programs

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CERTIFIED MAIL – RETURN RECEIPT REQUESTED

December 16, 2019

Mr. James Emery
Executive Director
Utah Paiute Tribal Housing Authority
565 North 100 East
Cedar City, UT 84721-6181

SUBJECT: Status of Final Monitoring Report Findings – Revised Recommended Corrective Actions

Dear Mr. Emery:

On June 28, 2017, a Final Monitoring Report (FMR) was issued by the Northern Plains Office of Native American Programs (NPONAP) as a result of the onsite monitoring review of the Indian Housing Block Grant (IHBG) program administered by the Utah Paiute Tribal Housing Authority (UPTHA). On September 20, 2018, NAPONAP revised the corrective actions for the only open monitoring finding, #2015-01 Missing Environmental Reviews. Below is the status of the open monitoring finding.

Finding #2015-01: Missing Environmental Reviews

To address this finding under the original Recommended Corrective Actions (RCAs), UPTHA was required to submit documentation to NAPONAP demonstrating UPTHA had completed compliant environmental reviews. To date, UPTHA staff has attended HUD-sponsored ER training, completed the online HUD Web-Based Instructional System for Environmental Review (WISER) training modules, and received technical assistance from NAPONAP on environmental review. Based on discussions with UPTHA regarding the HUD Environmental Review Online System (HEROS), NAPONAP is revising and extending the target due date to complete the RCAs.

Revised Recommended Corrective Actions (RCAs): The NAPONAP recommends that the UPTHA:

1. Identify the staff persons responsible for conducting environmental reviews. Ensure that they complete all of the online HUD Web-Based Instructional System for Environmental Review (WISER) training modules, except "Getting Started: Part 50." The WISER modules are available here: <https://www.hudexchange.info/trainings/wiser/>. Submit the name of the persons and provide a copy of the training certificates verifying they completed the training modules to NAPONAP.

UPTHA has provided training certificates verifying that James Emery and Lucy Pineda have completed the WISER training modules. **UPTHA has completed this RCA.**

2. Develop a process and associated procedures for the preparation of the Environmental Review Records (ERRs) in order to accomplish better quality control, ensuring completeness and adequate documentation of the ERRs. Such procedures should address ensuring that funds are not committed to a project prior to completion of environmental review, and should outline staff responsibilities regarding the environmental review process and submission of the Finding of No Significant Impact (FONSI) and RROF to NPONAP for applicable activities. Please provide a copy of these procedures to NPONAP. **UPTHA has completed this RCA.**
3. Once WISER training is completed, prepare environmental reviews, either in the HUD Environmental Review Online System (HEROS) or using the appropriate paper forms, for all Program Year (PY) 2018 activities identified in the current year's IHP (except for ongoing activities at existing HUD-assisted housing, which are covered below by RCA 4). HEROS can be accessed at <https://www.hudexchange.info/programs/environmental-review/heros/>. The ERRs should contain a complete and clear project description with adequate supporting documentation utilizing appropriate formats and worksheets. The ERRs should cover all applicable regulatory areas and contain all required environmental review documents such as public notices and written determinations. The documentation should also include any decision-making rationale and actions pertaining to a particular project. If using HEROS, submit the prepared reviews to a TA provider or NPONAP for technical assistance review through the "assign" feature in HEROS. Once the technical assistance review is finished, submit documentation verifying completion of the reviews to NPONAP (e.g., the RROF, if applicable, or a certification that the Responsible Entity has determined the project is exempt).
4. Once WISER training is completed, prepare environmental reviews, either in HEROS or using the appropriate paper forms, for all existing HUD-assisted housing sites to address the ongoing maintenance and rehabilitation activities that are expected to occur over the next five (5) years (including ongoing maintenance and rehabilitation activities that are identified in the current IHP). The ERRs should contain a complete and clear project description that defines the maximum anticipated scope of activities over the next 5 years with adequate supporting documentation utilizing appropriate formats and worksheets. For HUD-assisted housing sites in established communities, consider completing one environmental review per community. The project description for a community review would need to identify the geographic area and each HUD-assisted housing unit in that area, in addition to defining the anticipated activities. The ERRs should cover all applicable regulatory areas and contain all required environmental review documents such as public notices and written determinations. The documentation should also include any decision-making rationale and actions pertaining to a particular project. If using HEROS, submit the prepared reviews to a TA provider or NPONAP for technical assistance review through the "assign" feature in HEROS. Once the technical assistance review is finished, submit documentation verifying completion of the reviews to NPONAP (e.g., the RROF, if applicable, or a certification that the Responsible Entity has determined the project is exempt).

Target Date for Completion: January 15, 2020

NPONAP thanks the UPTHA for its continued efforts to address this open monitoring finding. If you have any questions, please contact me at (303) 839-2657, or via email at Amber.Hunter@hud.gov.

Sincerely,

A handwritten signature in black ink, appearing to read "Amber Hunter". The signature is fluid and cursive, with the first name "Amber" and last name "Hunter" clearly distinguishable.

Amber Hunter
Acting Division Director
Grants Evaluation

cc: Honorable Tamra Borchardt-Slayton, Chairperson
Paiute Indian Tribe of Utah



U. S. Department of Housing and Urban Development

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CERTIFIED MAIL – RETURN RECEIPT REQUESTED

June 4, 2019

Mr. James Emery
Executive Director
Utah Paiute Tribal Housing Authority
565 North 100 East
Cedar City, UT 84721-6181

SUBJECT: Status of Final Monitoring Report Findings – Revised Recommended Corrective Actions

Dear Mr. Emery:

On June 28, 2017, a Final Monitoring Report (FMR) was issued by the Northern Plains Office of Native American Programs (NPONAP) as a result of the onsite monitoring review of the Indian Housing Block Grant (IHBG) program administered by the Utah Paiute Tribal Housing Authority (UPTHA). On September 20, 2018, NPONAP revised the corrective actions for the only open monitoring finding, #2015-01 Missing Environmental Reviews. Below is the status of the open monitoring finding.

Finding #2015-01: Missing Environmental Reviews

To address this finding under the original Recommended Corrective Actions (RCAs), UPTHA was required to submit documentation to NPONAP demonstrating UPTHA had completed compliant environmental reviews. To date, UPTHA staff has attended HUD-sponsored ER training, completed the online HUD Web-Based Instructional System for Environmental Review (WISER) training modules, and requested technical assistance from NPONAP on environmental review. A contractor conducted onsite technical assistance at UPTHA in February 2019 and is scheduled to conduct a second session the week of July 22, 2019. Based on the date of the technical assistance, NPONAP is extending the target due date to complete the RCAs.

Revised Recommended Corrective Actions (RCAs): The NPONAP recommends that the UPTHA:

1. Identify the staff persons responsible for conducting environmental reviews. Ensure that they complete all of the online HUD Web-Based Instructional System for Environmental Review (WISER) training modules, except "Getting Started: Part 50." The WISER modules are available here: <https://www.hudexchange.info/trainings/wiser/>. Submit the name of the persons and provide a copy of the training certificates verifying they completed the training modules to NPONAP.


UPTHA has provided training certificates verifying that James Emery has completed the WISER training modules. **UPTHA has completed this RCA.**

2. Develop a process and associated procedures for the preparation of the Environmental Review Records (ERRs) in order to accomplish better quality control, ensuring completeness and adequate documentation of the ERRs. Such procedures should address ensuring that funds are not committed to a project prior to completion of environmental review, and should outline staff responsibilities regarding the environmental review process and submission of the Finding of No Significant Impact (FONSI) and RROF to NPONAP for applicable activities. Please provide a copy of these procedures to NPONAP.
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Target Date for Completion: September 30, 2019

NPONAP thanks the UPTHA for its continued efforts to address this open monitoring finding. If you have any questions, please contact Amber Hunter, Lead Grants Evaluation Specialist, at (303) 839-2657, or via email at Amber.Hunter@hud.gov.

Sincerely,


for Randy Akers
Administrator

cc: Honorable Tamra Borchardt-Slayton, Chairperson
Paiute Indian Tribe of Utah



U. S. Department of Housing and Urban Development

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April 15, 2019

Mr. James Emery
Executive Director
Utah Paiute Tribal Housing Authority
565 North 100 East
Cedar City, UT 84721-6181

**SUBJECT: Review of Annual Performance Report for Program Year Ended
September 30, 2018**

Dear Mr. Emery:

The Native American Housing Assistance and Self-Determination Act of 1996 (NAHASDA), at Section 404, as amended, requires the Department of Housing and Urban Development to assess, at least annually, each recipient's performance under the Act. This letter is to inform Utah Paiute Tribal Housing Authority (UPTHA) that HUD has completed the review of the UPTHA's Annual Performance Report (APR) for the program year ended September 30, 2018. The review was designed to evaluate the APR and provide comments to recipients on data quality and overall performance. The following performance measures were considered:

Whether the UPTHA:

- carried out its eligible activities in a timely manner;
- carried out its eligible activities and certifications in accordance with the requirements
- and the primary objectives of NAHASDA and with other applicable laws;
- has continuing capacity to carry out activities;
- complied with the Indian Housing Plan (IHP); and,
- submitted an accurate APR.

The Northern Plain Office of Native American Programs' (NPONAP) review was limited to an examination of the APR submission and information readily available and would not necessarily disclose all deficiencies or matters of noncompliance. NAPONAP's review determined that the APR is complete and UPTHA has complied substantially with the IHP in carrying out its eligible activities in a timely manner. Based on the information provided, NAPONAP offers the following comments and recommendations.

Section 3: Program Activities

Activities Partially Accomplished: NPONAP's review determined that two (2) eligible program activities are currently behind schedule. Program Activity 2018-01 and Program Activity 2018-05 were reported as currently behind schedule. Justification was provided in the APR to fully explain the delays. These activities are included in the 2018 IHP. Please ensure that the uncompleted activities will be included in the next APR.

Accomplishments Described with No Money Expended: UPTHA reported accomplishments for Activity 2018-06, Provide Housing Services to Homeowners, but did not report any expenditures for this activity. UPTHA informed NPONAP that the expenditures were reported in other activities (Operating and maintaining our current assisted stock) because UPTHA is not accounting for this activity separately. NPONAP recommends that UPTHA set up its accounting system to separately track expenditures for each program activity in its IHP to ensure accurate reporting in the APR.

Section 5 Budgets

LOCCS Draws Exceed Expenditures: The expenditure data contained in the table below indicates that the drawdown of funds through LOCCS exceeds the expenditures reported in the Uses of Funding table. It is assumed that the LOCCS draws exceed expenditures because funds drawn from LOCCS in one fiscal year were expended in either the prior fiscal year or the following fiscal year.

IHBG Funds Expended (Column (O), Uses of Funding Table)	Cumulative LOCCS Drawdown as of End of Program Year
\$1,956,042	\$2,732,960

Section 11: Inspections

	Formula Current Assisted Stock (FCAS)	APR	Change/Difference
Mutual Help	0	3	3
Rental	160	162	2

FCAS Data Discrepancy: The table data above indicates a discrepancy exists between the number of units in FCAS and the number of units reported Section 11. If there is an error in FCAS data, please contact the IHBG Formula Customer Service Center at (800) 410-8808 for guidance on how to resolve this issue. The FCAS data information is available here:

http://portal.hud.gov/hudportal/HUD?src=/program_offices/public_indian_housing/ih/codetalk/nap/ihbgformula

NPONAP congratulates the UPTHA on its achievements and its participation in the Indian Housing Block Grant program. NPONAP looks forward to working with the UPTHA to provide any technical assistance that may be necessary. If you have any questions, please contact Amber Hunter, Grants Evaluation Team Lead, at 303-839-2657 or by email at Amber.Hunter@hud.gov.

Sincerely,



Randy Akers
Administrator

Northern Plains Office of Native American Programs

Cc: Chairperson, Paiute Indian Tribe of Utah

e-Mailed 3/20/2019
RECEIVED MAR 18 2019



U. S. Department of Housing and Urban Development

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CERTIFIED MAIL – RETURN RECEIPT REQUESTED

March 11, 2019

Mr. James Emery
Executive Director
Utah Paiute Tribal Housing Authority
565 North 100 East
Cedar City, UT 84721-6181

SUBJECT: Status of Final Monitoring Report Findings – Revised Recommended Corrective Actions

Dear Mr. Emery:

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Revised Recommended Corrective Actions (RCAs): The NPONAP recommends that the UPTHA:

1. Identify the staff persons responsible for conducting environmental reviews. Ensure that they complete all of the online HUD Web-Based Instructional System for Environmental Review (WISER) training modules, except "Getting Started: Part 50." The WISER modules are available here: <https://www.hudexchange.info/trainings/wiser/>. Submit the name of the persons and provide a copy of the training certificates verifying they completed the training modules to NPONAP.



UPTHA has provided training certificates verifying that James Emery has completed the WISER training modules. UPTHA has completed this RCA.

2. Develop a process and associated procedures for the preparation of the Environmental Review Records (ERRs) in order to accomplish better quality control, ensuring completeness and adequate documentation of the ERRs. Such procedures should address ensuring that funds are not committed to a project prior to completion of environmental review, and should outline staff responsibilities regarding the environmental review process and submission of the Finding of No Significant Impact (FONSI) and RROF to NPONAP for applicable activities. Provide a copy of these procedures to NPONAP.
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Target Date for Completion: April 30, 2019

NPONAP thanks the UPTHA for its continued efforts to address this open monitoring finding. If you have any questions, please contact Amber Hunter, Lead Grants Evaluation Specialist, at (303) 839-2657, or via email at Amber.Hunter@hud.gov.

Sincerely,


 Randy Akers
Administrator

cc: Honorable Tamra Borchardt-Slayton, Chairperson
Paiute Indian Tribe of Utah



THE PAIUTE INDIAN TRIBE OF UTAH

440 North Paiute Drive • Cedar City, Utah 84721 • (435) 586-1112 • Fax (435) 867-2659

TRIBAL COUNCIL MEMORANDUM

TO: The Paiute Indian Tribe of Utah Tribal Members

FROM: The Paiute Indian Tribe of Utah Tribal Council *UBB*

Date: July 25, 2019

RE: U.S. Department of Housing and Urban Development, Indian Housing Block Grant Fiscal Year 2020, Utah Paiute Tribal Housing Authority

It has come to the attention of the Paiute Indian Tribe of Utah Tribal Council that we need to inform the general membership of the Paiute Indian Tribe of Utah why we are hesitant to sign the Indian Housing Block Grant Agreement for Fiscal Year 2020.

The Native American Housing Assistance and Self-Determination Act "NAHASDA" was enacted in 1996. This act recognized the rights of the tribal self-governance and the unique relationship between the Federal Government and Tribal Governments. NAHASDA provides annual funding for housing to Indian communities through the Indian Housing Block Grant "IHBG." These funds are provided directly to a tribe or a tribally designated housing entity.

The Utah Paiute Tribal Housing Authority became the Tribally Designated Housing Entity for the Paiute Indian Tribe of Utah by Resolution 98-15 and Resolution 2008-08.

NAHASDA § 102(c) states:

PARTICIPATION OF TRIBALLY DESIGNATED HOUSING ENTITY- A plan under this section for an Indian tribe may be prepared and submitted on behalf of the tribe by the tribally designated housing entity for the tribe, but only if such plan contains a certification by the recognized tribal government of the grant beneficiary that such tribe-- (1) has had an opportunity to review the plan and has authorized the submission of the plan by the housing entity; or (2) has delegated to such tribally designated housing entity the authority to submit a plan on behalf of the tribe without prior review by the tribe.

IHBG, Section 8: IHP Tribal Certification states:

This certification is used when a Tribally Designated Housing Entity (TDHE) prepares the IHP or IHP amendments on behalf of a tribe. **This Certification must be executed by the recognized tribal government covered under the IHP.**

An outline of the events are as follows:

May 20, 2019: IHP Draft Review Meeting held at the Utah Paiute Tribal Housing Authority Conference Room. During this meeting UPTHA stated they would put together a letter to distribute to Tribal Council in regard to questions.

June 4, 2019: The Paiute Indian Tribe of Utah Tribal Council request to meet with the Utah Paiute Tribal Housing Authority Board of Commissioners.

June 10, 2019: UPTHA sent a fax to the Paiute Indian Tribe of Utah Front Desk to post the Indian Housing Plan.

June 18, 2019: Tribal Secretary Carol Garcia received a letter back stating they could not meet on the proposed dates. UPTHA would like other dates with an agenda.

July 12, 2019: Utah Paiute Tribal Housing Authority sent the IHP via e-mail with no presentation to the Paiute Indian Tribe of Utah Tribal Council.

July 17, 2019: The Paiute Indian Tribe of Utah Chairperson, Cc'd on e-mail regarding the 2020 IHP from Lori Rogue, Grant Division Director of the Northern Plains Office, the Office of Native American Programs, The U.S. Department of Housing and Urban Development. Regarding implications of the deadline and possibly not being funded for the FY2020.

July 18, 2019: Utah Paiute Tribal Housing Authority was contacted by Ed Goodman, the Tribe's legal counsel with Hobbs, Strauss, Dean, and Walker regarding the IHBG Agreement, much like the agreement that are now signed with the Bands when seeking the Indian Community Development Block Grant (ICDBG).

July 18, 2019: James Jensen, Utah Paiute Tribal Housing Authority writes scathing letter to Ed Goodman, Tribal Attorney.

July 18, 2019: Tribal Chairperson meet with the Tribal Council in an emergency session to discuss the IHP and authorization to sign the document.

July 18, 2019: Tribal Chairperson was authorized to sign the Tribal Certification and sent directly to HUD, with letters outlying the frustration that PITU is currently facing. All the attachment sent to HUD are attached to this document. All deadlines were met to ensure our Tribal Members are not impacted.

Our hope in releasing all these documents is to clear up any confusion that is taking place by the miscommunication from the Tribe and the Housing Authority. Frankly, the Board of Commissioners that took to spreading malicious rumors via social media and various other platforms should be reprimanded for placing fear on our Tribal Membership. Ultimately, the PITU has no direct control over UPTHA

because they are a separate entity, but the funding is procured on behalf of the Tribe and must be approved by the Tribe. All the PITU can do is try and communicate the truth to the tribal membership without inciting fear. If you have any questions regarding this matter, please put your remarks in writing and attention them to Carol Garcia, Tribal Council Secretary or you can email her at cgarcia@utahpaiutes.org

How the Utah Paiute Tribal Housing Authority Receives Funding



Congressional
Research Service
Informing the legislative debate since 1914

NAHASDA appropriates money on behalf of Congress to authorize funds to American Indian/Alaskan Native for Housing

The Native American Housing Assistance and Self-Determination Act of 1996 (NAHASDA):
Background and Funding



HUD Receives the funding to administer to Indian Tribes under NAHASDA



The Paiute Indian Tribe of Utah is the tribe that receives the money allocated by HUD. Through a resolution as outlined in NAHASDA the PITU is allowed to choose a TDHE or department to receive and administer the funds on behalf of the Paiute Indian Tribe of Utah. The Utah Paiute Tribal Housing Authority by Resolution is the PITU's TDHE. PITU is still fiscally responsible and accountable for the funding and is required to certify and approve the Indian Housing Plan Annually for UPTHA to receive any fiscal year funding



The Utah Paiute Tribal Housing Authority is also registered as a Public Body Corporation that must comply and follow the State of Utah Law and has no sovereignty immunity. They are eligible to receive some state assistance.



The State of Utah legally holds UPTHA responsible for abiding by State Laws. Currently the only funding given to UPTHA is the Low-Income Housing Tax Credit Project, that required PITU approval.



Utah Paiute Tribal Housing Authority

585 North 100 East • Cedar City, Utah 84721 • (435) 586-1122

**TENTATIVE AGENDA
2020 INDIAN HOUSING PLAN (DRAFT) REVIEW
MONDAY, MAY 20, 2019 AT 10:00 AM
HOUSING AUTHORITY CONFERENCE ROOM**

OPENING:

ROLL CALL:

ADOPTION OF AGENDA:

NEW BUSINESS:

1. PRESENTATION OF 2020 INDIAN HOUSING PLAN (IHP) (DRAFT)
2. FUNDING ALLOCATION
3. PROGRAMS (7)
4. TIME LINE TO COMPLETION

ADJOURNMENT:



THE PAIUTE INDIAN TRIBE OF UTAH

440 North Paiute Drive • Cedar City, Utah 84721 • (435) 586-1112 • Fax (435) 867-2659

June 4, 2019

Sent via e-mail/USPS

Utah Paiute Tribal Housing Authority
Housing Board Commissioners
565 N. 100 E.
Cedar City, UT 84721

Dear UPTHA Commissioners:

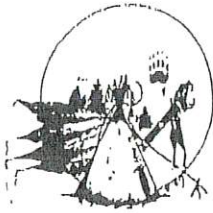
The Paiute Indian Tribe of Utah is requesting to meet with the Board of Commissioners to discuss an Indian Housing Block Grant Agreement between the Paiute Indian Tribe of Utah and the Utah Paiute Tribal Housing Authority. We are proposing to meet on Thursday, June 20, 2019 or Thursday, June 27, 2019 at 10:00am in the Tribal Council Chambers.

Please respond to Carol Garcia at cgarcia@utahpaiutes.org with one of the proposed dates listed above by Monday, June 15, 2019.

Sincerely,

Tamra Borchardt-Slayton
The Paiute Indian Tribe of Utah
Chairperson

CC: Tribal Council Secretary



Utah Paiute Tribal Housing Authority

565 North 100 East • Cedar City, Utah 84721 • (435) 586-1122

FAX COVERSHEET

TO: PITU Front Desk
FROM: UPTHA
DATE: 06/10/2019
FAX: (435)586-7388
PAGES INCLUDING FAX COVER: 11
PLEASE POST
THANK YOU!



Utah Paiute Tribal Housing Authority

565 North 100 East • Cedar City, Utah 84721 • (435) 586-1122

June 5, 2019

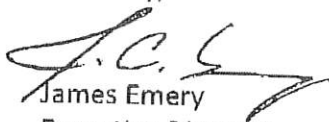
Utah Paiute Tribal Housing Authority
565 North 100 East
Cedar City, Utah 84721

To Whom It May Concern:

Re: FY 2020 Indian Housing Plan 30-Day Public Comment Period

Attached to this cover letter is a draft of the Fiscal Year 2020 "Indian Housing Plan." Please review the plan and provide any comments to the undersigned by mail (at the above address) or by email at jcemery763@gmail.com.

Sincerely,


James Emery
Executive Director

Attachment:

FY 2020 Indian Housing Plan Draft

6/9/2019

EPIC - U.S. Department of Housing and Urban Development (HUD)



Energy and Performance Information Center (EPIC)

Grant Number: 55-IH-49-12760

Report: IHP Report for 2020

OMB CONTROL NUMBER: 2577-0218
EXPIRATION DATE: 07/31/2019

Cover Page

Grant Information:

Grant Number	55-IH-49-12760
Recipient Program Year	10/01/2019-09/30/2020
Federal Fiscal Year	2020
Initial Indian Housing Plan (IHP):	Yes
Amended Plan	
Annual Performance Report (APR):	
Amended Plan	
Tribe:	
TDHE:	Yes

Recipient Information:

Name of the Recipient	UTAH PAIUTE HOUSING AUTHORITY
Contact Person	Emery, James
Telephone Number with Area Code	435-586-1122
Mailing Address	585 North 100 East
City	Cedar City
State	UT
Zip	84721
Fax Number with Area Code	435-586-0896
Email Address	jcamery763@gmail.com
Tribes:	Palute Indian Tribe of Utah

TDHE/Tribe Information:

Tax Identification Number	870361020
DUNS Number	868395807
CCR/SAM Expiration Date	06/22/2019

Planned Grant-Based Budget for Eligible Programs:

IHBG Fiscal Year Formula Amount	\$1,893,000.00
---------------------------------	----------------

Housing Needs

Type of Need (A)	Low-Income Indian Families (B)	All Indian Families (C)
Overcrowded Households	✓	
Renters Who Wish to Become Owners	✓	✓

6/9/2019

EPIC - U.S. Department of Housing and Urban Development (HUD)

Substandard Units Needing Rehabilitation	✓	✓
Homeless Households	✓	✓
Households Needing Affordable Rental Units	✓	
College Student Housing	✓	
Disabled Households Needing Accessibility	✓	✓
Units Needing Energy Efficiency Upgrades	✓	✓
Infrastructure to Support Housing	✓	✓
Other (specify below)	✓	✓
Other Needs	Under other needs, the need exists for housing outreach. This service provides for the all-around well being of the tenant in terms of housing counseling, locating available resources, pathway to home-ownership combined with other types of training classes aimed at improving housing situations.	
Planned Program Benefits	The Utah Palute Tribal Housing Authority (UPTHA) plans to address the needs of low-income Indian families in our service area by providing the following programs and activities using IHBG Funds: 1. Modernize our Current Assisted Stock (CAS) to make the units more energy efficient and bring the units up to our quality standards using ICDBG funds. 2. Operate and maintain CAS in accordance with UPTHA adopted policies and procedures aimed at reducing overcrowding and prevent homelessness. 3. Provide Tenant Based Rental Assistance through our housing services program to help reduce homelessness and assist households needing affordable rental units. 4. Provide crime prevention activities to the residents of the affordable housing areas served by the UPTHA to help reduce the number of crime reports. 5. Provide down payment and closing cost assistance to eligible tribal members. Also, assist renters who wish to become home-buyers and to address homelessness. 6. Provide insurance coverage for homes owned by eligible elderly tribal families and persons with disabilities to prevent homelessness. 7. ROSS Grant available resources to improve housing situations through training and education.	
Geographic Distribution	We plan to meet the needs of low income Indian families by providing housing assistance to residents of affordable housing located throughout the five county service area in Southwestern Utah.	

Programs

2020-01 : Modernization of 1937 Act Housing

Program Name:	Modernization of 1937 Act Housing
Unique Identifier:	2020-01
Program Description (continued)	UPTHA plans to modernize our Current Assisted Stock (CAS) using FY 2015 Indian Community Development Block Grant (ICDBG) funds. 7 units remain to be modernized during the period covered by the plan. In addition, the remainder of 20 roofs and 10 perimeter fencing will be completed as well.
Eligible Activity Number	(1) Modernization of 1937 Act Housing [202(1)]
Intended Outcome Number	(3) Improve quality of substandard units
APR: Actual Outcome Number	This information is only completed for an APR.
Who Will Be Assisted	Eligible low income Indian families.
Types and Level of Assistance	The type of modernization assistance we plan to provide will include making the units more energy efficient along with bringing the units up to our quality standards. The level of assistance will be an average of up to \$49,000 per unit.
APR : Describe Accomplishments	This information is only completed for an APR.

6/9/2019

EPIC - U.S. Department of Housing and Urban Development (HUD)

Planned and Actual Outputs for 12-Month Program Year

	Planned	APR - Actual
Number of Units to be Completed in Year	0	This Information is only completed for an APR.

APR: If the program is behind schedule, explain why

This information is only completed for an APR.

Uses of Funding:

The Uses of Funding table information can be entered here for each individual program or can be entered for all programs within Section 5(b): Uses of Funding. Changes to data on either page location will update in both Section 3: Program Descriptions and Section 5(b): Uses of Funding accordingly.

Prior and current year IHBG (only) funds to be expended in 12-month program year (L)	Total all other funds to be expended in 12-month program year (M)	Total funds to be expended in 12-month program year (N=L+M)
\$25,000.00	\$330,000.00	\$355,000.00

2020-02 : Operating and maintaining our current assisted stock

Program Name:	Operating and maintaining our current assisted stock
Unique Identifier:	2020-02
Program Description (continued)	UPTHA plans to continue to operate and maintain our CAS in accordance with our adopted policies and procedures. Our units will be operated in accordance with our adopted eligibility, Admissions, and Occupancy policies and procedures and will be maintained in accordance with UPTHA adopted maintenance policies and procedures to assure that the units meet our quality standards and remain viable as affordable housing. We also plan to continue to maintain an adequate labor force to provide maintenance, occupancy management, finance and tenant accounting, inspection, processing loss claims, and other services to the residents occupying our CAS.
Eligible Activity Number	(2) Operation of 1937 Act Housing [202(1)]
Intended Outcome Number	(6) Assist affordable housing for low income households
APR: Actual Outcome Number	This information is only completed for an APR.
Who Will Be Assisted	Eligible low income Indian families.
Types and Level of Assistance	The type of assistance UPTHA plans to provide is operating and maintaining our owned and managed units in accordance with our policies and procedures so that the units remain functional, safe and affordable at no cost to the program participants except for tenant caused damages. The level of assistance will include providing an adequate labor force to perform maintenance, occupancy, inspection and other services.
APR : Describe Accomplishments	This information is only completed for an APR.

Planned and Actual Outputs for 12-Month Program Year

	Planned	APR - Actual
Number of Units to be Completed in Year	0	This Information is only completed for an APR.

APR: If the program is behind schedule, explain why

This information is only completed for an APR.

Uses of Funding:

The Uses of Funding table information can be entered here for each individual program or can be entered for all programs within Section 5(b): Uses of Funding. Changes to data on either page location will update in both Section 3: Program Descriptions and Section 5(b): Uses of Funding accordingly.

Prior and current year IHBG (only) funds to be expended in 12-month program year (L)	Total all other funds to be expended in 12-month program year (M)	Total funds to be expended in 12-month program year (N=L+M)
\$950,000.00	\$377,000.00	\$1,327,000.00

6/9/2019

EPIC - U.S. Department of Housing and Urban Development (HUD)

2020-03 : Provide Tenant Based Rental Assistance Through our housing services program

Program Name:	Provide Tenant Based Rental Assistance Through our housing services program	
Unique Identifier:	2020-03	
Program Description (continued)	UPTHA plans to provide funding to assist eligible Indian families with rental assistance in accordance with our adopted Tenant Based Rental Assistance program policies and procedures.	
Eligible Activity Number	(17) Tenant Based Rental Assistance [202(3)]	
Intended Outcome Number	(6) Assist affordable housing for low income households	
APR: Actual Outcome Number	This information is only completed for an APR.	
Who Will Be Assisted	Low income eligible Indian families.	
Types and Level of Assistance	The type of assistance we plan to provide is tenant base rental assistance, the level of financial assistance for each household shall be the difference between the HUD established Fair Market Rent for the county where the unit is located and 30% of the household's adjusted monthly income.	
APR : Describe Accomplishments	This information is only completed for an APR.	
Planned and Actual Outputs for 12-Month Program Year	Planned	APR - Actual
	Number of Households to be served in Year	0 This information is only completed for an APR.
APR: If the program is behind schedule, explain why	This information is only completed for an APR.	

Uses of Funding:

The Uses of Funding table information can be entered here for each individual program or can be entered for all programs within Section 5(b): Uses of Funding. Changes to data on either page location will update in both Section 3: Program Descriptions and Section 5(b): Uses of Funding accordingly.

Prior and current year IHSG (only) funds to be expended in 12-month program year (L)	Total all other funds to be expended in 12-month program year (M)	Total funds to be expended in 12-month program year (N=L+M)
\$360,000.00	\$0.00	\$360,000.00

2020-04 : Provide Crime Prevention activities to the residents of the affordable housing areas served by UPTHA.

Program Name:	Provide Crime Prevention activities to the residents of the affordable housing areas served by UPTHA.
Unique Identifier:	2020-04
Program Description (continued)	UPTHA plans to continue to fund crime prevention and youth drug prevention program activities for residents of affordable housing areas in each of the five county service area. This part of an ongoing program for youth that we have funded for many years.
Eligible Activity Number	(21) Crime Prevention and Safety [202(5)]
Intended Outcome Number	(11) Reduction in crime reports
APR: Actual Outcome Number	This information is only completed for an APR.
Who Will Be Assisted	Eligible low income Indian families.
Types and Level of Assistance	The type of assistance UPTHA plans to provide is funding drug and crime prevention programs. The level of financial assistance for each of the five tribal bands we serve will be up to \$25,000 per band. The Drug Prevention Program (DPP) main purpose is to provide an after school setting for youth. The program is to provide educational services in three main areas of tutoring, cultural and preventative programs with an emphasis on crime prevention. Over the years, this program has provided the young residents of our affordable housing areas with an opportunity to

6/9/2019

EPIC - U.S. Department of Housing and Urban Development (HUD)

	participate in organized activities that help them learn about the harmful affects of drugs along with why participating in criminal activity at a young age will affect their ability to get a quality education and employment later on in life. We assist the youth by having our respected elders and other peers participate in some of the activities to share their experiences with the youth and explain that the use of illegal drugs and other controlled substances is not part of the tribe's culture.
--	---

APR: Describe Accomplishments

This information is only completed for an APR.

Planned and Actual Outputs for 12-Month Program Year

Planned

APR - Actual

The output measure being collected for this eligible activity is dollars. The dollar amount should be included as an other fund amount listed in the Uses of Funding table.

APR: If the program is behind schedule, explain why

This information is only completed for an APR.

Uses of Funding:

The Uses of Funding table information can be entered here for each individual program or can be entered for all programs within Section 5(b): Uses of Funding. Changes to data on either page location will update in both Section 3: Program Descriptions and Section 5(b): Uses of Funding accordingly.

Prior and current year IHBG (only) funds to be expended in 12-month program year (L)

Total all other funds to be expended in 12-month program year (M)

Total funds to be expended in 12-month program year (N=L+M)

\$125,000.00

\$0.00

\$125,000.00

2020-05 : Provide Down Payment and Closing Cost Assistance to Eligible tribal families

Program Name:	Provide Down Payment and Closing Cost Assistance to Eligible tribal families	
Unique Identifier:	2020-05	
Program Description (continued)	Provide down payment and closing cost assistance to eligible tribal families in accordance with our adopted policies and procedures.	
Eligible Activity Number	(13) Down Payment/Closing Cost Assistance [202(2)]	
Intended Outcome Number	(2) Assist renters to become homeowners	
APR: Actual Outcome Number	This information is only completed for an APR.	
Who Will Be Assisted	Eligible low income tribal families.	
Types and Level of Assistance	UPTHA plans to provide up to \$25,000 per family to assist two families this plan year with down payment and closing cost assistance in accordance with our adopted policies and procedures.	
APR : Describe Accomplishments	This information is only completed for an APR.	
Planned and Actual Outputs for 12-Month Program Year	Planned	APR - Actual
	Number of Units to be Completed in Year	0 This information is only completed for an APR.
APR: If the program is behind schedule, explain why	This information is only completed for an APR.	

Uses of Funding:

The Uses of Funding table information can be entered here for each individual program or can be entered for all programs within Section 5(b): Uses of Funding. Changes to data on either page location will update in both Section 3: Program Descriptions and Section 5(b): Uses of Funding accordingly.

Prior and current year IHBG (only) funds to be expended in 12-month program year (L)

Total all other funds to be expended in 12-month program year (M)

Total funds to be expended in 12-month program year (N=L+M)

\$50,000.00

\$0.00

\$50,000.00

6/9/2019

EPIC - U.S. Department of Housing and Urban Development (HUD)

2020-06 : Provide Housing Services to Homeowners

Program Name:	Provide Housing Services to Homeowners						
Unique Identifier:	2020-06						
Program Description (continued)	We plan to provide insurance coverage on homes owned and occupied by eligible elderly families and persons with disabilities as a housing services activity. Many of our elderly tribal families and tribal members who are persons with disabilities live in conveyed mutual help homes and don't have insurance coverage on their homes for a variety of reasons. If their home is destroyed by fire or some other cause, the family becomes homeless as there is no other affordable housing available. therefore, by providing coverage for these families, the families will not become homeless and not be requesting assistance from UPTHA. This outcome of this activity will prevent homelessness.						
Eligible Activity Number	(18) Other Housing Service [202(3)]						
Intended Outcome Number	(5) Address homelessness						
APR: Actual Outcome Number	This information is only completed for an APR.						
Who Will Be Assisted	Low income elderly tribal members and low income tribal members who are documented persons with disabilities will be assisted.						
Types and Level of Assistance	We will provide home-owner insurance coverage on up to 30 low income elderly families and tribal members who are documented persons with disabilities.						
APR : Describe Accomplishments	This information is only completed for an APR.						
Planned and Actual Outputs for 12-Month Program Year	<table border="1"> <thead> <tr> <th></th> <th>Planned</th> <th>APR - Actual</th> </tr> </thead> <tbody> <tr> <td>Number of Households to be served in Year</td> <td>0</td> <td>This Information is only completed for an APR.</td> </tr> </tbody> </table>		Planned	APR - Actual	Number of Households to be served in Year	0	This Information is only completed for an APR.
	Planned	APR - Actual					
Number of Households to be served in Year	0	This Information is only completed for an APR.					
APR: If the program is behind schedule, explain why	This information is only completed for an APR.						

Uses of Funding:

The Uses of Funding table information can be entered here for each individual program or can be entered for all programs within Section 5(b): Uses of Funding. Changes to data on either page location will update in both Section 3: Program Descriptions and Section 5(b): Uses of Funding accordingly.

Prior and current year IHBG (only) funds to be expended in 12-month program year (L)	Total all other funds to be expended in 12-month program year (M)	Total funds to be expended in 12-month program year (N=L+M)
\$0.00	\$15,000.00	\$15,000.00

2020-07 : Resident Opportunity Self-Sufficiency

Program Name:	Resident Opportunity Self-Sufficiency						
Unique Identifier:	2020-07						
Program Description (continued)	Resident opportunity and self sufficiency.						
Eligible Activity Number	(19) Housing Management Services [202(4)]						
Intended Outcome Number	(12) Other-must provide description in the box below If Other: TBD						
APR: Actual Outcome Number	This information is only completed for an APR.						
Who Will Be Assisted	TBD						
Types and Level of Assistance	TBD						
APR : Describe Accomplishments	This information is only completed for an APR.						
Planned and Actual Outputs for 12-Month Program Year	<table border="1"> <thead> <tr> <th></th> <th>Planned</th> <th>APR - Actual</th> </tr> </thead> <tbody> <tr> <td>Number of Households to be served in Year</td> <td>20</td> <td>This Information is only completed for an APR.</td> </tr> </tbody> </table>		Planned	APR - Actual	Number of Households to be served in Year	20	This Information is only completed for an APR.
	Planned	APR - Actual					
Number of Households to be served in Year	20	This Information is only completed for an APR.					

6/9/2019

EPIC - U.S. Department of Housing and Urban Development (HUD)

APR: If the program is behind schedule, explain why

This information is only completed for an APR.

Uses of Funding:

The Uses of Funding table information can be entered here for each individual program or can be entered for all programs within Section 5(b): Uses of Funding. Changes to data on either page location will update in both Section 3: Program Descriptions and Section 5(b): Uses of Funding accordingly.

Prior and current year IHBG (only) funds to be expended in 12-month program year (L)	Total all other funds to be expended in 12-month program year (M)	Total funds to be expended in 12-month program year (N=L+M)
\$5,000.00	\$50,000.00	\$55,000.00

Maintaining 1937 Act Units, Demolition, and Disposition

Maintaining 1937 Act Units

UPTHA plans to maintain and operate our Current Assisted Stock (CAS) in accordance with UPTHA adopted maintenance policies and procedures to ensure the units remain viable as affordable housing.

Demolition and Disposition

UPTHA does not plan to demolish and/or dispose of any housing units during this year.

Budget Information**Sources of Funding**

Funding Source	Amount on hand at beginning of program year (A)	Amount to be received during 12-month program year (B)	Total sources of funds (C=A+B)	Funds to be expended during 12-month program year (D)	Unexpended funds remaining at end of program year (E=C-D)
IHBG Funds:	\$0.00	\$1,893,000.00	\$1,893,000.00	\$1,893,000.00	\$0.00
IHBG Program Income:	\$800,000.00	\$350,000.00	\$1,150,000.00	\$392,000.00	\$758,000.00
Title VI:	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00
Title VI Program Income:	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00
1937 Act Operating Reserves:	\$0.00		\$0.00	\$0.00	\$0.00
Carry Over 1937 Act Funds:	\$0.00		\$0.00	\$0.00	\$0.00
LEVERAGED FUNDS					
ICDBG Funds:	\$330,000.00	\$0.00	\$330,000.00	\$330,000.00	\$0.00
Other Federal Funds:	\$133,000.00	\$0.00	\$133,000.00	\$50,000.00	\$83,000.00
LIHTC:	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00
Non-Federal Funds:	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00
Total:	\$1,263,000.00	\$2,243,000.00	\$3,506,000.00	\$2,665,000.00	\$841,000.00

Uses of Funding

Program Name	Unique Identifier	Prior and current year IHBG (only) funds to be expended in 12-month program year (L)	Total all other funds to be expended in 12-month program year (M)	Total funds to be expended in 12-month program year (N=L+M)
Modernization of 1937 Act Housing	2020-01	\$25,000.00	\$330,000.00	\$355,000.00
Operating and maintaining our current assisted stock	2020-02	\$950,000.00	\$377,000.00	\$1,327,000.00

6/9/2019

EPIC - U.S. Department of Housing and Urban Development (HUD)

Provide Tenant Based Rental Assistance Through our housing services program	2020-03	\$360,000.00	\$0.00	\$360,000.00
Provide Crime Prevention activities to the residents of the affordable housing areas served by UPTHA.	2020-04	\$125,000.00	\$0.00	\$125,000.00
Provide Down Payment and Closing Cost Assistance to Eligible tribal families	2020-05	\$50,000.00	\$0.00	\$50,000.00
Provide Housing Services to Homeowners	2020-06	\$0.00	\$15,000.00	\$15,000.00
Resident Opportunity Self-Sufficiency	2020-07	\$5,000.00	\$50,000.00	\$55,000.00
Planning and Administration		\$378,000.00	\$0.00	\$378,000.00
Loan Repayment (describe in 4 & 5 below)		\$0.00	\$0.00	\$0.00
Total		\$1,893,000.00	\$772,000.00	\$2,665,000.00

APR

APR

The answer to this question is only requested for an APR.

Other Submission Items

Useful Life/Affordability Period(s)	IHBG Funds invested Useful Life Period extended Under \$5,000 = 6 Months, \$5,000 to \$15,000 - = Years, \$15,001 to \$40,000 = 10 Years, and over \$40,000 = 15 Years.										
Model Housing and Over-Income Activities	UPTHA does not plan to undertake any Model Activities during this plan year.										
Tribal and Other Indian Preference Does the tribe have a preference policy?	YES In Accordance with UPTHA Procurement Policy for Indian Preference description. UPTHA will continue to provide preference to members of the Palute Indian Tribe of Utah and then preference will be given to Native Americans who are members of other Federally recognized tribes.										
Anticipated Planning and Administration Expenses Do you intend to exceed your allowable spending cap for Planning and Administration?	NO										
Actual Planning and Administration Expenses Did you exceed your allowable spending cap for Planning and Administration?	The answer to this question is only requested for an APR.										
Does the tribe have an expanded formula area?:	NO										
Total Expenditures on Affordable Housing Activities:	<table> <thead> <tr> <th></th><th>All AIAN Households</th><th>AIAN Households with Incomes 80% or Less of Median Income</th></tr> </thead> <tbody> <tr> <td>IHBG Funds</td><td>\$0.00</td><td>\$0.00</td></tr> <tr> <td>Funds from Other Sources</td><td>\$0.00</td><td>\$0.00</td></tr> </tbody> </table>			All AIAN Households	AIAN Households with Incomes 80% or Less of Median Income	IHBG Funds	\$0.00	\$0.00	Funds from Other Sources	\$0.00	\$0.00
	All AIAN Households	AIAN Households with Incomes 80% or Less of Median Income									
IHBG Funds	\$0.00	\$0.00									
Funds from Other Sources	\$0.00	\$0.00									
For each separate formula area, list the expended amount	The answer to this question is only requested for an APR.										

Indian Housing Plan Certification Of Compliance

6/9/2019

EPIC - U.S. Department of Housing and Urban Development (HUD)

In accordance with applicable statutes, the recipient certifies that it will comply with the Civil Rights Act of 1968 and other federal statutes, to the extent that they apply to tribes and TDHEs.	YES
In accordance with 24 CFR 1000.328, the recipient receiving less than \$200,000 under FCAS certifies that there are households within its jurisdiction at or below 80 percent of median income.	Not Applicable
The recipient will maintain adequate insurance coverage for housing units that are owned and operated or assisted with grant amounts provided under NAHASDA, in compliance with such requirements as may be established by HUD:	YES
Policies are in effect and are available for review by HUD and the public governing the eligibility, admission, and occupancy of families for housing assisted with grant amounts provided under NAHASDA:	YES
Policies are in effect and are available for review by HUD and the public governing rents charged, including the methods by which such rents or homebuyer payments are determined, for housing assisted with grant amounts provided under NAHASDA:	YES
Policies are in effect and are available for review by HUD and the public governing the management and maintenance of housing assisted with grant amounts provided under NAHASDA:	YES
Tribal Wage Rate Certification	
1. You will use tribally determined wage rates when required for IHBG-assisted construction or maintenance activities. The Tribe has appropriate laws and regulations in place in order for it to determine and distribute prevailing wages.	
2. You will use Davis-Bacon or HUD determined wage rates when required for IHBG-assisted construction or maintenance activities.	YES
3. You will use Davis-Bacon and/or HUD determined wage rates when required for IHBG-assisted construction except for the activities described below.	
4. List the activities using tribally determined wage rates:	

Tamra Borchardt-Slayton

From: Carol Garcia
Sent: Tuesday, June 18, 2019 8:21 AM
To: Tamra Borchardt-Slayton
Subject: FW: UPTHA BOC Response Letter - 06/17/2018
Attachments: UPTHA BOC Response Letter.pdf

From: James Emery <jcemery763@gmail.com>
Sent: Monday, June 17, 2019 3:30 PM
To: Carol Garcia <cgarcia@utahpaiutes.org>
Subject: UPTHA BOC Response Letter - 06/17/2018

Forwarding on behalf of the UPTHA Board of Commissioners

James C. Emery, MBA
Executive Director
Utah Paiute Tribal Housing Authority
565 North 100 East
Cedar City, Utah 84721
Phone: (435) 586-1122, Ext #102
Fax: (435) 586-0896
jcemery763@gmail.com
www.utahpaiutehousing.org



Utah Paiute Tribal Housing Authority

5035 North 100 East • Cedar City, Utah 84721 • (435) 586-1122

June 15, 2019

Paiute Tribe of Utah (PITU)
440 Paiute Drive
Cedar City, Utah 84721

Re: PITU Chairperson Letter – Dated: June 4, 2019

Dear Chairwoman:

We acknowledge receiving your letter dated June 4, 2019 proposing a meeting and discussion concerning an Indian Housing Plan Agreement as well as the proposed dates for the discussion on June 20th or June 27th, 2019. Unfortunately, prior engagements prevent us from meeting with you on either of those proposed dates.

Please provide additional dates when you are available to meet as well as a copy of the proposed agenda along with any pertinent information supporting this proposed discussion.

Sincerely,

Board of Commissioners,
Utah Paiute Tribal Housing Authority

Tamra Borchardt-Slayton

From: James Emery <jcemery763@gmail.com>
Sent: Friday, July 12, 2019 9:06 PM
To: Tamra Borchardt-Slayton; LaTosha Mayo; Jeanine Borchardt (Indian Peaks Chair); Carol Garcia; Delice Tom; Darlene Arrum
Cc: Betty Cuch; Toni Kanosh; Halena Blandford; travis duran
Subject: 2020 Indian Housing Plan Certification - Due: July 18, 2019
Attachments: 2020 Indian Housing Plan.pptx; Section 8 - IHP Tribal Certification.pdf

Dear Tribal Council,

Attached is the 2020 Indian Housing Plan (Final) for your review. HUD ONAP policy requires the tribe to provide certification to the correctness of the plan by way of the tribal chair signing the attachment certification document below. Once the certification is complete, please email back to me or forward the certification directly to Luisa Bonilla, Grants Manager, HUD ONAP Denver on or before **July 18, 2019**.

Note: There were no comments received during the 30 day comment period.

Sincerely,

James C. Emery, MBA
Executive Director
Utah Paiute Tribal Housing Authority
565 North 100 East
Cedar City, Utah 84721
Phone: (435) 586-1122, Ext #102
Fax: (435) 586-0896
jcemery763@gmail.com
www.utahpha.org

Tamra Borchardt-Slayton

From: Roget, Lori L <Lori.L.Roget@hud.gov>
Sent: Wednesday, July 17, 2019 1:45 PM
To: James Emery; ajimenez@utahpha.org
Cc: Bonilla, Luisa A; Tamra Borchardt-Slayton; Betty Cuch
Subject: 2020 IHP Submission

Hi April,

Thanks for speaking with me today regarding the 2020 IHP submission. As we discussed, the deadline for submission is tomorrow COB. This is a hard deadline. If it is missed, then UPTHA will be ineligible to receive IHBG funding next year unless a waiver is granted based on exigent circumstances beyond the control of the Utah Paiute Tribe.

The IHP need not be complete, it just needs to be submitted at the following website using Internet Explorer (not Firefox or Chrome):

https://portalapps.hud.gov/app_epic/login.do?cmd=doLoginHome

As far as I know, James is the only person registered to use this site on behalf of UPTHA.

After submission, we will have 60 days to review the IHP and obtain any necessary information.

Luisa is out until tomorrow, but it is imperative that the IHP be submitted on time.

If you have any questions, please let me know. We will be following up tomorrow.

Thanks, Lori

Lori Roget
Grants Management Division Director
Northern Plains Office of Native American Programs
U.S. Department of Housing and Urban Development
1670 Broadway, 24th Floor
Denver, CO 80202
(303) 672-5175
Fax: (303) 672-5003

Thu 7/18/2019 4:47 PM

EC Ed Clay Goodman <EGoodman@hobbsstrauss.com>

FW: MOA between UPTHA and Paiute Indian Tribe of Utah

To: Tamra Borchardt-Slayton

190718 PTU UPTHA IHBG Agreement 2019 .pdf
607 KB

To: James Emery <jemery263@gmail.com>; jim@southernutahlaw.com <jim@southernutahlaw.com>
Cc: 'bcuch@utahpautes.org' <bcuch@utahpautes.org>
Subject: MOA between UPTHA and Paiute Indian Tribe of Utah

Mr. Emery and Mr. Jensen,

I am writing on behalf of our firm's client, the Paiute Indian Tribe of Utah. As you are likely aware, today is the deadline for submitting a Tribally-approved IHP for FY2020 IHBG funding. The Tribe has been trying to set up a meeting with UPTHA for several weeks now to discuss approval of the IHP and certain requirements that will need to be a part of that process. As I understand, those attempts have been rebuffed.

I am forwarding along with this email an MOA to be executed between the Tribe and UPTHA. The Tribe is requiring that UPTHA execute this MOA prior to the Tribe approving the IHP. The MOA sets out the basic elements of oversight and compliance for activities carried out with the FY 2020 IHBG funds (as well as for the IHBG competitive funds, should UPTHA apply for and receive those funds).

Please execute the attached and return to me. Let me know if you have any questions.

Thank you,

Ed

Ed Clay Goodman, Partner

T 503.242.1745 | F 503.242.1072

HOBBS STRAUSS DEAN & WALKER, LLP
516 S.E. Morrison, Suite 1200, Portland, OR 97214

HOBBSSTRAUSS.COM

Hobbs, Strauss, Dean and Walker, LLP. Confidentiality Statement

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THE PAIUTE INDIAN TRIBE OF UTAH

440 North Paiute Drive • Cedar City, Utah 84721 • (435) 586-1112 • Fax (435) 867-2659

INDIAN HOUSING BLOCK GRANT MEMORANDUM OF AGREEMENT

1. **PARTIES:** This Memorandum of Agreement ("MOA") is between the Paiute Indian Tribe of Utah, hereinafter referred to as the TRIBE, and the Utah Paiute Tribal Housing Authority, hereinafter referred to as the TDHE. The TDHE is the Tribally Designated Housing Entity of the Tribe and an independent contractor, performing services as the recipient of the TRIBE's Indian Housing Block Grant (IHBG) funds on behalf of the TRIBE in fulfillment of obligations as an IHBG recipient. Except as described in this MOA, the TDHE is not an agent or representative of the TRIBE.
2. **TERM:** The term of this MOA is from the date of execution and signature of the parties until the date that the FY 2020 IHBG funds and FY2018-2019 IHBG Competitive NOFA funds (if the TDHE is successful in applying for such funds) are fully expended and the useful life of any projects funded with those funds expires, whichever is later.
3. **BINDING COMMITMENT:** The TDHE shall execute binding commitments satisfactory to the Secretary of HUD and placed on any projects developed with FY2020 IHBG funds and FY2018-2019 IHBG Competitive NOFA funds (if the TDHE is successful in applying for such funds) to ensure that the homes developed pursuant to this MOA will remain affordable for its "useful life/affordability period" to satisfy the requirements of section 205(a)(2) of NAHASDA (codified at 25 U.S.C. § 4135(a)(2)) and set forth in guidance on binding commitments provided by the HUD Office of Native American Programs (published in No. 2013-06 (R)). Further, the TDHE will ensure that a "binding commitment" is executed as a written agreement with all individuals who receive assistance through the contemplated project. These binding commitments will be imposed by recorded deed restrictions, covenants running with the land, or other mechanisms approved by HUD, except that the useful life/affordability period restrictions may terminate upon foreclosure by a lender (or transfer in lieu of foreclosure) as long as the action is not for the purpose of avoiding low-income affordability restrictions. The written agreement may contain a schedule outlining a payback of a decreasing balance of assistance or percentage equity over the useful life/affordability period or affordability period that would have to be reimbursed to the recipient's program if a subsequent occupant does not meet the IHBG and/or Title VI eligibility requirements.
4. **PROPOSAL REVIEW:** The TDHE agrees to give the TRIBE two (2) months to review the proposal to be submitted in response to the FY 2018-2019 IHBG Competitive Funds NOFA and work with the TDHE on any modifications before the proposal is submitted to HUD.
5. **PROGRAM MANAGEMENT:** The TDHE acknowledges and understands that:
 - a. The TRIBE is the beneficiary of the IHBG and IHBG Competitive Grant funding; and
 - b. The TRIBE shall be kept apprised of and wherever possible cc'd on all communications between the TDHE and HUD; and
 - c. The TDHE is responsible for following the TRIBE's financial policies and procedures for procurement and OMB Super Circular guidelines on grants and grant management; and

IHBG MOA: 07/18/2019

- d. The TDHE understands that according to 2 CFR 200.319, “contractors that develop or draft specifications, requirements, statements of work or invitations for bids or requests for proposals must be excluded from competing for such procurements. This restriction applies to contractors that either have provided or will provide these services in connection with the project for with IHBG funding is being provided”;
 - e. Contractors who write or participate in the development of an IHBG proposal are excluded from contracting on an approved contract; and
 - f. Once a proposal is approved, the Project is the TDHE’s Project and the TDHE is responsible for carrying out all of Project deliverables, abiding by all terms and conditions in the notice of award, meeting Project timelines, and reporting any variances to the TRIBE in a timely manner that need to be reported to the granting agency; and
 - g. The TDHE will be responsible for procuring contracts in accordance with OMB Super Circulars and the TRIBE’s Financial Management Policies; and
 - h. The TDHE will be responsible for verifying all potential contractors are not on the debarred or suspended list as detailed in the TRIBE’s financial management policy.
 - i. The TDHE is responsible for determining how it will manage the IHBG grant, including compliance with all established budgets, cost limitations, applicable timelines and regulations.
 - j. The TDHE agrees to adhere to the approved timeline it submitted in its proposal. Any delays must be reported and can cause a negative impact on future funding.
 - k. The TDHE agrees to meet all granting agency conditions within the approved time period.
 - l. The TDHE agrees to write a policy to house essential families as defined by Section 201(b)(3) of NAHASDA, to meet the needs of the tribes staffing needs.
 - m. The TRIBE is responsible for the funding received by the TDHE and has the right to
 - (1) Monthly financial reports given at tribal council meetings
 - (2) Investigate if any question of mismanagement of funds once reported
 - (3) Input on Annual Audit
6. PROGRAM REQUIREMENTS: the TDHE must provide the following:
- a. Confirmation that any projects developed with FY2020 IHBG funds and FY2018-2019 IHBG Competitive NOFA funds (if the TDHE is successful in applying for such funds) have been presented to all Tribal Members
 - b. TDHE Approved Indian Housing Plan and Application for the FY2018-2020 IHBG Competitive Funds.
 - c. Completed Environmental Reviews and are in compliance with all applicable law and regulations.
7. RECORDS AND REPORTS TO BE MAINTAINED BY THE TDHE
- a. Establishment and Maintenance of Records.
 - (1) TDHE shall maintain records, including, but not limited to, financial records, bid documents, and all other records sufficient to reflect all direct and indirect costs incurred to perform the development of the Project.
 - (2) TDHE shall maintain reports as to its performance under this MOA and its compliance with applicable law, regulation, and guidance. TDHE shall establish and maintain all backup data necessary to support those reports.
 - (3) TDHE is responsible for maintaining all other records and reports as required by law.
 - b. Preservation of Records and Reports.
 - (1) TDHE shall preserve and make available for review and inspection all records and reports related to the development of the Project under this MOA.
8. ADMINISTRATIVE FEE: The TDHE agrees to budget a 5% administrative fee of the total funds administered for the TRIBE to cover its administrative efforts in coordinating with the granting agency.

9. PROJECT EXPENSES: the TDHE agrees that it is solely responsible for the following costs related to the IHBG Project:
- All expenses related to the proposal development and grant submission.
 - All matching contributions identified in the Application
 - Costs for the Feasibility Study
 - Costs for the Environmental Assessment/Reviews
 - All start-up capital
 - All matching contributions
 - Any additional expenditures exceeding the approved budgeted amounts are not allowable, will require a revised approved budget from HUD, and will be the sole responsibility of the TDHE.
 - Any and all invoices that are budgeted in the approved IHBG budget.
 - Any and all permitting fees (if applicable)
 - Any and all liens placed on the property
 - Any and all balances owed on charge accounts associated with the Project
10. ATTORNEY FEES: Any and all attorney fees and costs that arise or that are associated with the TDHE's IHBG Project will be charged to the TDHE and the TDHE will pay for all attorney fees and costs that the TRIBE incurs on behalf of the TDHE and its Project.
11. GENERAL: The TDHE acknowledges and understands:
- The TRIBE is the beneficiary of the funding received by the TDHE and has the right to
 - Monthly financial reports given at tribal council meetings
 - Investigate if any question of mismanagement of funds once reported
 - Input on Annual Audit
 - TDHE understand the relationship with the TRIBE and that it is responsible to report to the Tribal Council and receive input from the Tribal Council and not individual bands.
 - The TDHE must remain in compliance with all applicable law and regulations, including but not limited to the Native American Housing Assistance and Self-Determination Act (25 USC 4101 et seq), its implementing regulations (24 CFR part 1000), the terms of the NOFA, and any applicable laws of the State of Utah.
 - The TDHE agrees that the Board of Commissioners
 - Provide a list of travel and trainings related to the Project quarterly and be approved prior to travel with a full report to the TRIBE upon completion of travel/training
 - No Commissioner will be compensated for work performed in any program offered by the TDHE
 - The TDHE agrees to work with the TRIBE on
 - Placing the old TDHE Building into Trust
 - TDHE agrees to work with TRIBE and Bureau of Indian Affairs on lease agreements
12. NOTIFICATION REQUIREMENT. The TDHE agrees to notify the TRIBE immediately if claims are made against the TDHE in any civil action or proceeding that arises from the activities contemplated under this MOA, and to cooperate in good faith to assist in any defense that may be provided by the Department of Justice or the TRIBE.
13. ASSUMPTION OF RISK. TDHE will assume all risks and dangers inherent in the development and use of the projects developed and funded with FY2020 IHBG funds and FY2018-2019 IHBG Competitive NOFA funds (if the TDHE is successful in applying for such funds). TDHE agrees to use its best judgment in the development and use of the projects and to follow generally accepted safety principles. TDHE waives and releases the TRIBE from any claim for personal injury, property damage, or death that may arise from TDHE's development and use of the projects, except to the extent such injury, damage, or death is the result of the negligence of the TRIBE or its agents, employees, or representatives.

14. INDEMNIFICATION. TDHE agrees to hold harmless, indemnify, and defend the TRIBE (including the TRIBE's agents, employees, and representatives) from any and all liability for injury or damage including, but not limited to, bodily injury, personal injury, emotional injury, or property damage which may result from any person using the above described premises for TDHE's purposes, except and unless such injury or damage is the result of the negligence of the TRIBE or the TRIBE's agents, employees, or representatives. The TRIBE agrees to hold harmless, indemnify, and defend TDHE (including TDHE's agent, employees, and representatives) from any and all liability for injury or damage including, but not limited to, bodily injury, personal injury, emotional injury, or property damage, which may result from the negligence of the TRIBE or the TRIBE's agents, employees, or representatives.
15. TERMINATION AND SUSPENSION. The TRIBE retains the right to suspend or terminate this MOA should TDHE in any way materially fail to comply with any of the terms and provisions of this MOA. Such suspension or termination must be made in writing provided to TDHE.
16. NO ASSIGNMENTS. TDHE agrees that it will not assign any of its rights under this MOA without the written consent of the TRIBE, and any such assignment will automatically void this MOA at the sole option of the TRIBE.
17. REPORTING; FAILURE TO COMPLY WITH THE TERMS OF THIS AGREEMENT: TDHE agrees that if it fails to comply with the terms of this MOA, the TDHE may lose its TDHE Status and Funding. It shall be the responsibility of the TDHE to manage its resources in such a manner as to provide and maintain the level, scope, and quality of services required by this MOA throughout the term of this MOA within the budget provided. However, if, at any time during the term of this MOA, the Tribe becomes aware that it cannot provide the required services for the agreed upon price, it shall immediately so notify the TRIBE. Thereafter, the TDHE shall propose any necessary changes to the scope of work in this MOA to resolve the TDHE's inability to perform. The parties shall then meet and attempt to reach agreement on how the required services can be provided or whether this MOA should be terminated. At the time of the meeting, the parties will discuss all options proposed by the Tribe that might be available to resolve the service delivery situation.

The TDHE, as a sub-recipient of Federal financial assistance, agrees to comply with the requirements of all OMB cost circulars as well as the Tribe's financial management policy.

WITNESS WHEREOF, the parties sign and cause this Memorandum of Agreement to be executed:

Tamra Borchardt-Slayton Chairwoman Paiute Indian Tribe of Utah	Date
Tribal Administrator Paiute Indian Tribe of Utah	Date
CFO Paiute Indian Tribe of Utah	Date

BOC Chairperson	Date
BOC Vice Chairperson	Date
BOC Council Member	Date
BOC Council Member	Date
BOC Secretary	Date

IHBG MOA: 07/18/2019

JENSEN LAW OFFICE

ATTORNEY AT LAW

P.O. Box 726
250 South Main
Cedar City, Utah 84720
TELEPHONE (435) 586-4404
FAX (435) 586-1002

JAMES W. JENSEN, P.C.

jim@southernutahlaw.com
www.southernutahlaw.com

July 18, 2019

Via Email Transmittal: Egoodman@hobbsstrauss.com
and Via Facsimile: (503) 242-1072

Ed C. Goodman
HOBBS STRAUS DEAN & WALKER, LLP
516 S.E. Morrison, Ste 1200
Portland, Oregon 97214

RE: Utah Paiute Tribal Housing Authority
[Proposed] MOA with Paiute Indian Tribe of Utah

Dear Mr. Goodman:

I am in receipt of your email of today's date regarding the above-referenced matter, together with the therein-referenced [proposed] MOA between the Paiute Indian Tribe of Utah (PITU) and the Utah Paiute Tribal Housing Authority (UPTHA). The following comments are in order.

First, the allegation contained in your email that my client has rebuffed the tribe's efforts to set up a meeting to discuss the IHP is incorrect. The tribe contacted my client on one occasion wherein it requested a meeting; however, the request was made on extremely short notice, and my client was unable to accommodate such request. My client so advised the tribe, and requested that the tribe provide to it additional available dates for the meeting, wherein my client could determine a mutually agreeable date and time therefore. The tribe failed to respond to such request. As such, no meeting was scheduled.

Next, as you stated in your email of today's date, your client was and is fully aware that today is the deadline to submit the tribally-approved IHP for the FY2020 IHBG funding. Despite this knowledge, your client intentionally and deliberately waited until the deadline date to submit to my client the [proposed] MOA, with a demand that it be signed before the tribe would submit its certification. To say that I am surprised that you would participate in such an endeavor would be a great understatement. There are substantive issues contained within the [proposed] MOA that cannot be addressed at a moment's notice. To demand my client sign the same on the deadline date for submission of the IHP is underhanded, and constitutes coercion, duress, undue influence and unclean hands on the part of your client. The tribe is overreaching its authority. That said, my client understands that your client may have concerns related to the funding, and appreciates the need to meet and confer in an attempt to resolve such concerns. However, my client needs time to thoroughly review the [proposed] agreement to evaluate its contents, and to evaluate the concerns of the tribe, which my client is willing to do within a fair and equitable timeframe. I strongly encourage you to counsel your client to submit its certification for the IHP today, as the same presently exists, in order that my client can obtain the funding necessary for fiscal year 2020. This will afford my client the opportunity to address your client's concerns, and

JENSEN LAW OFFICE
Attorney at Law

Ed C. Goodman
Page 2
July 18, 2019

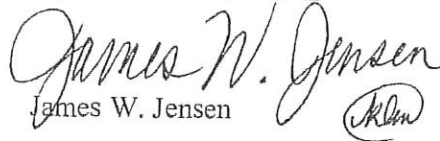

the MOA, for fiscal year 2021.

Further, in the event the tribe fails and refuses to submit its certification for the FY2020 IHBG funding, the UPTHA's economic relations will be substantially impacted, and it will have no option but to cut costs, which would include, but not be limited to, eliminating the drug prevention program, eliminating the back-to-school program and eliminating its donation to the tribe. In addition, it would have to increase rents and reduce benefits to staff, employees, and all other persons and/or parties associated or under contract with the UPTHA. My client intends to communicate this information to any and all persons or parties who may be affected by the loss of funding for fiscal year 2020 should your client fail and refuse to submit its certification today. Cutting programs and costs does nothing but serve to adversely affect the tribal bands and the tribal members, which is contrary to the purpose of both the PITU and the UPTHA.

Finally, please advise my office immediately whether or not your client intends to submit its certification of the IHP today. I encourage you to counsel your client to do what is in the best interests of the band and tribal members. Thank you.

Very truly yours,

JENSEN LAW OFFICE


James W. Jensen 

JWJ/klm

cc: Board of Commissioners - UPTHA
James C. Emery, Executive Director - UPTHA

Tamra Borchardt-Slayton

From: Tamra Borchardt-Slayton
Sent: Thursday, July 18, 2019 4:55 PM
To: Lori.L.Roget@hud.gov
Cc: Bonilla, Luisa A; Carol Garcia; Jeanine Borchardt (Indian Peaks Chair); LaTosha Mayo; Delice Tom; Ed Clay Goodman
Subject: IHP 2020 PITU Certification
Attachments: PITU Letter to HUD 7.18.19.pdf; PITU UPTHA IHBG Agreement 2019 7.18.19.pdf; Goodman ltr July 18 2019.pdf; Original E-mail Jim Jensen 7.18.19.JPG

Ms. Roget,

Please see the attached documents.

Best,

Tamra Borchardt-Slayton
The Paiute Indian Tribe of Utah Chairperson
Paiute Indian Tribe of Utah
440 N Paiute Drive Cedar City, UT 84721
Office: (435)586-1112 ext. 102
Cell: (435) 691-3946
tslayton@utahpaiutes.org

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THE PAIUTE INDIAN TRIBE OF UTAH

440 North Paiute Drive • Cedar City, Utah 84721 • (435) 586-1112 • Fax (435) 867-2659

July 18, 2019

Lori Roget
Grants Management Division Director
Northern Plains Office of Native American Programs
U.S. Department of Housing and Urban Development
1670 Broadway, 24th Floor
Denver, CO 80202

Dear Ms. Roget,

The Paiute Indian Tribe of Utah is writing this letter to the US Department of Housing and Urban Development, Office of Native American Programs to inform you that we will be signing the certification for the FY2020 IHBG Indian Housing Plan ("IHP"). We are also requesting a meeting with HUD and the Utah Paiute Tribal Housing Authority ("UPTHA") to discuss each other's roles and responsibilities in the near future.

One of the most troubling issues that we have with this IHP is that UPTHA, the recipient of the funds for which the Tribe is the beneficiary, never presented this IHP in an open council meeting for the Tribal Council to review, consider, and approve. According to the applicable Tribal structure and Tribal laws, the Tribal Chairperson cannot act without the approval of the Tribal Council, and I could not sign off on the IHP on my own authority. Thus, in order to preserve and protect this critical funding, the Tribal Council was forced to call an emergency council meeting to meet this deadline. Being placed in this situation by UPTHA is unacceptable, particularly given ongoing and unresolved issues regarding UPTHA's resistance to the Tribe's oversight role. In fact, the Tribe – through its legal counsel – requested that UPTHA execute a Memorandum of Agreement ("MOA") to clarify oversight and accountability as a condition of approval. UPTHA's response, through its attorney, was a hyperbolic letter full of vitriol and threats. That letter also indicated UPTHA's willingness to forego the FY 2020 IHBG funding rather than sign off on a modest MOA, which largely tracks similar MOAs entered between the Tribe and Bands in the past for ICDBG funding. (I have attached a copy of that MOA so you can see what the Tribal Council was requesting.) The Tribe, while understandably distressed at such posturing as well as the disastrous results that it would entail, was not willing to match that level of irresponsibility, and has signed off on the IHP certification. We will still pursue execution of the MOA with UPTHA to cover the FY 2020 funding.

Nevertheless, we want to make it clear that in our discussion with roles for the FY2021 IHP that we will insist on an MOA that adequately sets out the roles and responsibilities of the Tribe and UPTHA in order

to provide for adequate oversight and responsibility. That MOA must be executed on a yearly basis. The Tribe will also write new Ordinances that reflect the needs of the tribe as a whole.

I look forward to continuing to work together with HUD, and I hope that we are able to find a reasonable partner in UPTHA going forward. If you have any questions, please feel free to contact me at tslayton@utahpaiutes.org.

Sincerely,

A handwritten signature in black ink, appearing to read "Tamra Borchardt-Slayton". The signature is fluid and cursive, with a large initial "T" and "B".

Tamra Borchardt-Slayton
Paiute Indian Tribe of Utah
Tribal Chairwoman

Enclosures (1)

Tamra Borchardt-Slayton

From: Roget, Lori L <Lori.L.Roget@hud.gov>
Sent: Thursday, July 18, 2019 5:21 PM
To: Tamra Borchardt-Slayton
Cc: Bonilla, Luisa A; Carol Garcia; Jeanine Borchardt (Indian Peaks Chair); LaTosha Mayo; Delice Tom; Ed Clay Goodman
Subject: RE: IHP 2020 PITU Certification

Hello Chairman Borchardt-Slayton,

Thank you for sending us these documents. Ms. Cuch was able to access the system we use for IHP submissions and successfully submit UPHA's 2020 IHP. We will need a tribal certification before the plan can be found in compliance. Luisa and I look forward to scheduling a call with the Tribe and TDHE in the near future. For planning purposes, Luisa will be out next week and I am out the following week so we are looking at sometime in August.

Will be talking with you soon.

Lori Roget
Grants Management Division Director
Northern Plains Office of Native American Programs
U.S. Department of Housing and Urban Development
1670 Broadway, 24th Floor
Denver, CO 80202
(303) 672-5175
Fax: (303) 672-5003

From: Tamra Borchardt-Slayton <tslayton@utahpaiutes.org>
Sent: Thursday, July 18, 2019 4:55 PM
To: Roget, Lori L <Lori.L.Roget@hud.gov>
Cc: Bonilla, Luisa A <Luisa.A.Bonilla@hud.gov>; Carol Garcia <cgarcia@utahpaiutes.org>; Jeanine Borchardt (Indian Peaks Chair) <jeanine.borchardt@gmail.com>; LaTosha Mayo <latoshamayo@gmail.com>; Delice Tom <dtom@skyviewmail.com>; Ed Clay Goodman <EGoodman@hobbsstrauss.com>
Subject: IHP 2020 PITU Certification

Ms. Roget,

Please see the attached documents.

Best,

Tamra Borchardt-Slayton
The Paiute Indian Tribe of Utah Chairperson
Paiute Indian Tribe of Utah
440 N Paiute Drive Cedar City, UT 84721
Office: (435) 586-1112 ext. 102
Cell: (435) 691-3946
tslayton@utahpaiutes.org

Tamra Borchardt-Slayton

From: Roget, Lori L <Lori.L.Roget@hud.gov>
Sent: Friday, July 19, 2019 8:02 AM
To: Tamra Borchardt-Slayton
Cc: Bonilla, Luisa A
Subject: RE: Signed IHP

Just what we needed. Thanks and have a great day, Lori

Lori Roget
Grants Management Division Director
Northern Plains Office of Native American Programs
U.S. Department of Housing and Urban Development
1670 Broadway, 24th Floor
Denver, CO 80202
(303) 672-5175
Fax: (303) 672-5003

From: Tamra Borchardt-Slayton <tslayton@utahpaiutes.org>
Sent: Thursday, July 18, 2019 5:50 PM
To: Roget, Lori L <Lori.L.Roget@hud.gov>
Cc: Bonilla, Luisa A <Luisa.A.Bonilla@hud.gov>
Subject: Signed IHP

I noticed I forgot to attach this.

Best,

Tami

Get [Outlook for iOS](#)

SECTION 8: IHP TRIBAL CERTIFICATION
NAHASDA § 102(c)


This certification is used when a Tribally Designated Housing Entity (TDHE) prepares the IHP or IHP amendment on behalf of a tribe.

This certification must be executed by the recognized tribal government covered under the IHP.

(1) The recognized tribal government of the grant beneficiary certifies that:

(2) ☒ It had an opportunity to review the IHP or IHP amendment and has authorized the submission of the IHP by the TDHE; or

(3) ☐ It has delegated to such TDHE the authority to submit an IHP or IHP amendment on behalf of the Tribe without prior review by the Tribe.

(4) Tribe:	The Paiute Indian Tribe of Utah
(5) Authorized Official's Name and Title:	Tamra Borchardt-Slayton, PITU Chairperson
(6) Authorized Official's Signature:	
(7) Date (MM/DD/YYYY):	07/18/2019

THE UTAH COURT OF APPEALS

UTAH PAIUTE TRIBAL HOUSING AUTHORITY INC.,
Petitioner,

v.

DEPARTMENT OF WORKFORCE SERVICES,
WORKFORCE APPEALS BOARD,
Respondent.

Opinion

No. 20190164-CA

Filed November 21, 2019

Original Proceeding in this Court

James W. Jensen, Attorney for Petitioner

Amanda B. McPeck, Attorney for Respondent

JUDGE DIANA HAGEN authored this Opinion, in which
JUDGES GREGORY K. ORME and DAVID N. MORTENSEN concurred.

HAGEN, Judge:

¶1 Utah Paiute Tribal Housing Authority Inc. (the Housing Authority) seeks judicial review of a Workforce Appeals Board (the Board) decision that a former employee (the Employee) was terminated without just cause and is thus entitled to unemployment benefits. Because the Board's findings and conclusions are supported by substantial evidence, we decline to disturb the Board's decision.

Utah Paiute Tribal Housing Authority Inc. v.
Department of Workforce Services

BACKGROUND¹

¶2 This case concerns the dismissal of the Employee from her employment with the Housing Authority, a Utah corporation that assists members of the Paiute Indian Tribe of Utah in obtaining affordable housing.² During the course of her employment, the Employee reported to the Housing Authority's executive director. The executive director, in turn, reported to the Board of Commissioners (the Commissioners), an organization comprised of representatives from the different bands of the Paiute Indian Tribe. Although the Paiute Indian

1. In reviewing a decision of the Board, "we view the facts in the light most favorable to the [Board's] findings" and recite them accordingly. *See Evolocity, Inc. v. Department of Workforce Services*, 2015 UT App 61, ¶ 2 n.2, 347 P.3d 406.

2. "To provide and maintain housing for the needy, Congress enacted the Housing Act of 1937." *Housing Auth. of Kaw Tribe of Indians of Okla. v. City of Ponca City*, 952 F.2d 1183, 1185 (10th Cir. 1991); accord 42 U.S.C. § 1437 (1988). Consistent with this mandate, the Department of Housing and Urban Development (HUD) has promulgated regulations for the creation of Indian housing authorities. *Id.* Indian housing authorities, such as the petitioner, may receive federal grants or apply to HUD for loans that enable the housing authorities to develop or maintain low-income housing for members of the tribes they serve. *See Marceau v. Blackfeet Housing Auth.*, 540 F.3d 916, 928 (9th Cir. 2008) (discussing how the Housing Act empowers Indian housing authorities to apply to HUD for loans); *Amerind Risk Mgmt. Corp. v. Malaterre*, 585 F. Supp. 2d 1121, 1127 (D.N.D. 2008) (discussing an Indian housing authority that received federal grants to maintain reservation housing), *rev'd on other grounds*, 633 F.3d 680 (8th Cir. 2011).

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Department of Workforce Services*

Tribe has its own tribal council (the Tribal Council) that authorizes the Housing Authority's funding, the Tribal Council does not fall directly within the Housing Authority's chain of command.

¶3 About one year into her employment with the Housing Authority, the Employee began to suspect that the executive director was misusing Housing Authority funds. She believed that the Commissioners were reflexively supportive of the executive director and would not take complaints about him seriously. The Employee also testified that other individuals had previously complained to the Tribal Council about the executive director's spending, but the Tribal Council had indicated that "it was powerless to do anything without proof of wrongdoing."

¶4 The Employee began collecting documents that she believed supported her suspicions that the executive director was misusing funds. She obtained a copy of a per diem check from the Housing Authority made out to the executive director. She also acquired a copy of the executive director's travel arrangements and corporate credit card statement, intending to use the documents to show that the executive director had inflated the amount of his per diem check and misused Housing Authority funds on hotels and rental cars.

¶5 The Employee reported her suspicions to the Tribal Council and provided the supporting documents. As a result, the Tribal Council cancelled a scheduled meeting with the Commissioners and provided the Commissioners with copies of the documents. The Commissioners responded by alerting the executive director of the allegations made by the Employee. The executive director then terminated the Employee for violating the Housing Authority's non-disclosure policy, which the Employee had previously agreed to, by revealing confidential information.

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¶6 Following her termination, the Employee made a claim for unemployment benefits. The Utah Department of Workforce Services denied her claim, finding that the Employee was discharged for “just cause.” The Employee appealed to an administrative law judge (the ALJ), and the ALJ upheld the original decision. The Employee appealed the ALJ’s decision to the Board, which found that the Employee was terminated without just cause. The Board accordingly reversed the determination of the ALJ and held that the Employee was entitled to unemployment benefits. The Housing Authority now seeks judicial review of the Board’s decision.

ISSUE AND STANDARD OF REVIEW

¶7 The Housing Authority challenges the sufficiency of the evidence to support the Board’s determination that the Employee was terminated without just cause. This court “will uphold the Board’s decision if its factual findings and determinations are supported by substantial evidence when viewed in light of the whole record.” *Needle Inc. v. Department of Workforce Services*, 2016 UT App 85, ¶ 6, 372 P.3d 696 (cleaned up). “Substantial evidence is that quantum and quality of relevant evidence that is adequate to convince a reasonable mind to support a conclusion and is more than a mere scintilla but something less than the weight of the evidence.” *Id.* (cleaned up). Additionally, this court defers to “the Board’s credibility determinations and its resolution of conflicts in the evidence.” *Id.*

ANALYSIS

¶8 “An employee is ineligible for unemployment insurance benefits if the Board concludes that the employee was discharged for just cause.” *Davis v. Department of Workforce Services*, 2015 UT App 93, ¶ 8, 348 P.3d 352; *see also* Utah Code

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Ann. § 35A-4-405(2)(a) (LexisNexis 2015). “To establish ‘just cause,’ three elements must be present: culpability, knowledge, and control.” *Autoliv ASP, Inc. v. Department of Workforce Services*, 2001 UT App 198, ¶ 17, 29 P.3d 7; *see also* Utah Admin. Code R994-405-202. Here, the Board concluded that the Housing Authority failed to show all three elements—including culpability. Because “the employer must satisfy all three requirements to avoid paying unemployment compensation on the ground the employee was fired for just cause,” and because the employer has failed to establish culpability, we need not consider the “knowledge” and “control” elements. *See Provo City v. Department of Workforce Services*, 2012 UT App 228, ¶ 13 n.6, 286 P.3d 936 (citing Utah Admin. Code R994-405-202).

¶9 To establish culpability, “[t]he conduct causing the discharge must be so serious that continuing the employment relationship would jeopardize the employer’s rightful interest.” Utah Admin. Code R994-405-202(1). However, “[i]f the conduct was an isolated incident of poor judgment and there was no expectation it would be continued or repeated, potential harm may not be shown.” *Id.* “The claimant’s prior work record is an important factor” in this determination because “[a]n employer might not be able to demonstrate that a single violation, even though harmful, would be repeated by a long-term employee with an established pattern of complying with the employer’s rules.” *Id.*

¶10 The Board’s determination that the Employee’s conduct did not pose a serious risk to the Housing Authority’s rightful interests is supported by substantial evidence. While the Housing Authority has an interest in maintaining the confidentiality of its financial records, this is not a typical breach of confidentiality case. Rather, the Employee, rightly or wrongly, suspected fraud, and the reporting of such suspicions is not adverse to an employer’s rightful interests, but is very much

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consistent with them. Further, it was reasonable for the Employee to believe that the Tribal Council was an appropriate entity to report her suspicions to. After all, the Housing Authority was distributing money *on behalf of the tribe* and required the Tribal Council's authorization to operate. The Employee also had reason to believe that the Commissioners would not take her suspicions seriously if she reported the suspected fraud to them.

¶11 Even if the Employee made errors of judgment either in reporting to the wrong entity or by disclosing confidential information that was not strictly necessary to blow the whistle on suspected wrongdoing, such an error would, at most, amount to an isolated instance of poor judgment. This is especially true given the fact that the Employee did not have any other instances of misconduct during her time at the Housing Authority.

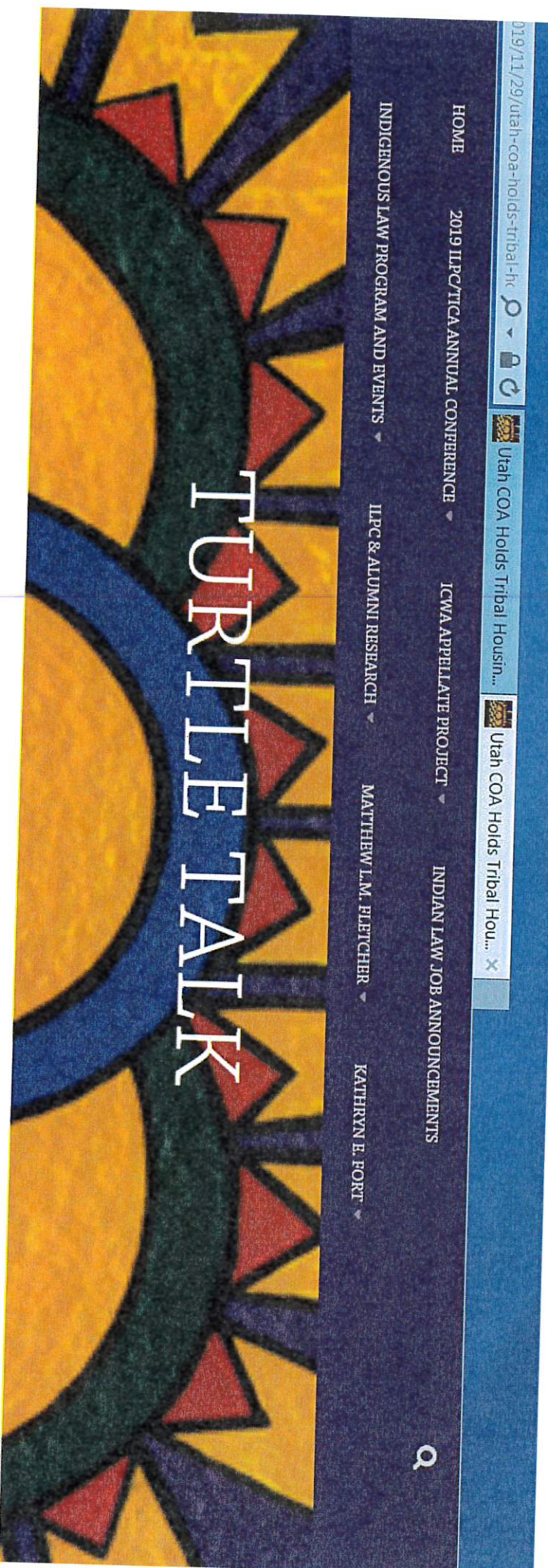
¶12 The Housing Authority argues that the Employee did not act in good faith because she (1) was aware of and agreed to the Housing Authority's nondisclosure policy, (2) "surreptitiously obtained confidential and privileged information and documentation" that was outside the scope of her employment, (3) turned over that information and documentation to the Tribal Council without authorization, and (4) sent derogatory text messages about the executive director. But the Board weighed the evidence and ultimately rejected the Housing Authority's arguments. And "it is the province of the Board, not appellate courts, to resolve conflicting evidence, and where inconsistent inferences can be drawn from the same evidence, it is for the Board to draw the inferences." *Dinger v. Department of Workforce Services*, 2013 UT App 59, ¶ 20, 300 P.3d 313 (cleaned up). Where "the evidence is disputed, as it was here, we defer to the Board's assessment of credibility and resolution of conflicting evidence." *See id.* (cleaned up).

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Department of Workforce Services*

¶13 Accordingly, the Housing Authority is unable to satisfy the culpability prong of the just cause analysis, and we decline to disturb the Board's decision.

CONCLUSION

¶14 The Board's determination that the Housing Authority failed to establish culpability is supported by substantial evidence. Therefore, the Housing Authority has failed to show that the Employee was terminated for just cause, and we decline to disturb the Board's decision that the Employee is entitled to unemployment benefits.



HOME

2019 ILPC/TICA ANNUAL CONFERENCE

ICWA APPELLATE PROJECT

INDIAN LAW JOB ANNOUNCEMENTS

INDIGENOUS LAW PROGRAM AND EVENTS

ILPC & ALUMNI RESEARCH

MATTHEW L.M. FLETCHER

KATHRYN E. FORT

Utah COA Holds Tribal Housing Terminated Employee without Just Cause and Is Entitled to Unemployment Benefits

November 29, 2019 Matthew L.M. Fletcher

Here is the [opinion](#) in *Utah Paiute Tribal Housing Authority v. Dept. of Workforce Services*.



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CONTRIBUTORS

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THE PAIUTE INDIAN TRIBE OF UTAH

440 North Paiute Drive • Cedar City, Utah 84721 • (435) 586-1112 • Fax (435) 867-2659

November 8, 2018

Utah Paiute Tribal Housing Authority
565 N 100 E
Cedar City, UT 84721

Dear Chair of the Board,

On behalf of the Paiute Indian Tribe of Utah (PITU) Tribal Council, I am officially notifying the Utah Paiute Tribal Housing Authority (UPTHA) Board of Commissioners regarding a potential misuse of UPTHA funds by the ~~Executive Director~~. The PITU Tribal Council strongly urges the UPTHA Board of Commissioners to immediately investigate the UPTHA's ~~Executive Director's~~ spending based upon this notification. The PITU Tribal Council is reporting this potential misuse of money in good faith as there is credible information substantiating the issuance of this notification.

Attached to this notification, I have attached several documents that the PITU Tribal Council strongly urges that you immediately review. Specifically, I have attached travel authorizations, training information, credit card purchases, text messages, and other information that may indicate that there has been an abuse in spending by the UPTHA ~~Executive Director~~.

Please understand that the PITU Tribal Council has not come to a final conclusion that there has been a misuse of funds. As stated earlier, the PITU Tribal Council is notifying the UPTHA Board of Commissioners of the potential abuse in spending pursuant to ethical and moral obligations. Each member of the PITU Tribal Council has sworn an oath to uphold the laws of the PITU and act in the best interest of the Tribe. It is the PITU Tribal Council's hope that the UPTHA Board of Commissioners will act immediately to resolve this issue.

During your internal review of these documents, the PITU Tribal Council needs the UPTHA Board of Commissioners to remember the following:

1. There are laws that protect UPTHA employees from retaliation if they report potential misuses of UPTHA money;
2. This notification provides UPTHA the opportunity to handle this matter without intervention from any other governmental entity or agency;
3. That this notification is provided to ensure that UPTHA's funds are used to benefit PITU Tribal members and other beneficiaries; and

4. The PITU wants to ensure that UPTHA's status as a public body corporate is preserved.

After the UPTHA Board of Commissioners has investigated the potential misuse of funds, the PITU Tribal Council respectfully requests a meeting to discuss the findings and the possible resolution. Please respond to this notification within 30 days. If there is no response within this time period, the PITU Tribal Council will seek any other remedies.

Finally, with respect to the meeting that UPTHA has called for Friday, November 9, 2018, I am notifying you that the PITU Tribal Council will not be in attendance because of the following reasons: (1) There will be no PITU Tribal Council quorum available; (2) As a result of the above-detailed concerns; and (3) The issues surrounding UPTHA's restrictions, as a public body corporate, to not conduct meetings outside of its proper jurisdiction.

If you have any questions or concerns, please contact me at tslayton@utahpaiutes.org or at (435)585-1112 ext. 102.

Sincerely,



Tamra Slayton-Borchardt, Chairperson
Paiute Indian Tribe of Utah Tribal Council

JENSEN LAW OFFICE

JAMES W. JENSEN, P.C.

ATTORNEY AT LAW

P.O. Box 726
250 South Main
Cedar City, Utah 84720
TELEPHONE (435) 586-4404
FAX (435) 586-1002

jim@southernutahlaw.com
www.southernutahlaw.com

COPY

November 30, 2018

Via Email Transmittal ONLY:

paul@tsosielaw.com

Paul Tsosie
TSOSIE LAW, PLLC
5912 Feldspar Way
West Jordan, Utah 84081

RE: Investigation into alleged misuse of UPTHA fund by the acting [REDACTED]
[REDACTED]

Dear Mr. Tsosie:

I am in receipt of your letter under date of November 20, 2018 with regard to the alleged misuse of UPTHA funds by the [REDACTED]. Responsive thereto, please be advised that an investigation of the claims of alleged misuse of funds is underway. Thank you.

Very truly yours,

JENSEN LAW OFFICE

James W. Jensen
James W. Jensen (JWJ)

JWJ/klm

JENSEN LAW OFFICE

ATTORNEY AT LAW

P.O. Box 726
250 South Main
Cedar City, Utah 84720
TELEPHONE (435) 586-4404
FAX (435) 586-1002

JAMES W. JENSEN, P.C.

jim@southernutahlaw.com
www.southernutahlaw.com

December 31, 2018

Via Email Transmittal:
paul@tsosielaw.com
and Facsimile Transmittal:
(385) 275-7661

Paul Tsosie
TSOSIE LAW, PLLC
5912 Feldspar Way
West Jordan, Utah 84081

RE: Investigation into alleged misuse of UPTHA funds by the [REDACTED]

Dear Mr. Tsosie:

This letter is written responsive to Tamra Borchardt-Slayton's letter to the Board of Commissioners of the Utah Paiute Tribal Housing Authority (hereafter "Board"), under date of December 20, 2018.

First, as you are aware, and pursuant to the Ordinance of the Paiute Indian Tribe of Utah (hereafter "PITU"), the PITU, and/or its Council, is without authority to convene a hearing regarding the removal of any commissioner of the UPTHA Board without the matter first being referred to the Band(s) for their input and potential resolution. As such, and by reason of the tone of the December 20, 2018 letter, it is understood that the "special meeting" scheduled for January 5, 2019, at 1:00 p.m. is not a removal hearing, and will, therefore, not be treated as such. If you feel differently, please provide a written basis for your position. That said, and notwithstanding, the charges against the Board, as presented in the December 20, 2018 letter, will be addressed hereinbelow.

With respect to the allegations in paragraph 1 of the "specific charges," the UPTHA Board disputes it has not investigated the allegations against [REDACTED], the Executive Director of the UPTHA, for misuse of funds. The Board has been engaged in a detailed investigation into the said allegations (of which you were advised by letter under date of November 30, 2018, a copy of which is attached). Upon conclusion of the investigation, the Board will provide a detailed report of its investigation and findings to the PITU Council. The Board takes these allegations seriously, and wants to ensure its investigation is thorough and complete. The Board apologizes it was not possible to complete the investigation under the deadlines you desired, but it is working diligently to finalize the report. A copy of the report will be provided as soon as it is completed. The Board may not be able to finalize the same by January 2, 2019, but will do its best to accomplish the same. In the event the report is not completed by January 2, 2019, the Board will do its best to complete the same by the date of January 5, 2019 for the meeting. I am not aware of a statute, resolution or ordinance that requires the documentation you requested to be submitted prior to the meeting. Please direct me to such authority if you disagree. Please let me know the time and location of the January

JENSEN LAW OFFICE
Attorney at Law

Paul Tsosie
TSOSIE LAW, PLLC
Page 2
December 31, 2018

5, 2019 meeting. I presume it is acceptable to have the Band Councils at this meeting. Please let me know if you, or the Council, feel otherwise.

With respect to the allegations in paragraph 2, on or about September 27, 2018, [REDACTED], the Executive Director of the UPTHA, provided a flashdrive to Ms. Borchardt-Slayton, which flashdrive contained responsive information that was available to him at that time. The Board will provide a copy of the said financial information to the PITU Council at the same time it provides its report of the investigation and its findings related to the alleged misuse of funds by [REDACTED].

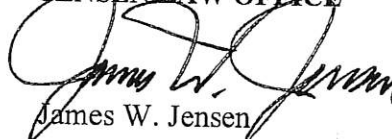
With respect to the allegations contained in paragraph 3, please be advised that information related to personnel is confidential and privileged, disclosure of which is prohibited by the housing authority rules and Utah law. Notwithstanding, the Board has investigated the allegations contained in said paragraph 3, and will provide to the PITU Council general information regarding the same as allowed under the housing authority rules and Utah law, at the same time the above-referenced report is completed.

With respect to the allegations contained in paragraph 4, please be advised that it is the position of the Board that all policies and procedures were correctly followed. Notwithstanding, the Board may be inclined to make further recommendations in its report regarding these matters.

Please provide a copy of this letter to the PITU Council on or before January 2, 2019. The Board will provide the detailed report to the PITU Council as soon as the same is completed. We appreciate your patience in providing the Board sufficient time to finalize its written report. The Board desired to complete the same within the deadlines you requested, but the volume of the allegations and the time of the year prevented such. I apologize for not requesting an extension of time. Please be advised that the Board is using its best efforts to give the investigation the proper and full attention necessary and required. Thank you.

Very truly yours,

JENSEN LAW OFFICE



James W. Jensen

JWJ/klm

COPY TO:
PITU Tribal Council
440 North Paiute Drive
Cedar City, Utah 84721

January 4, 2019

**INVESTIGATION REPORT, FINDINGS AND CONCLUSIONS OF THE BOARD OF
COMMISSIONERS OF THE UTAH PAIUTE TRIBAL HOUSING AUTHORITY**

This investigation report, findings and conclusions of the Board of Commissioners of the Utah Paiute Tribal Housing Authority (UPTHA) regarding allegations of misuse of funds by [REDACTED] of the Utah Paiute Tribal Housing Authority, issues related to playground equipment belonging to the Indian Peaks Band, issues related to an alleged hostile work environment, and allegations of favoritism, among other things.

The investigation of the Board of Commissioners of UPTHA was predicated upon allegations set forth in letters received from the Tribal Chair, Tamra Borchardt-Slayton dated November 8, 2018 and December 20, 2018, respectively, and a letter from Paul Tsosie, counsel for the PITU Tribe, dated November 20, 2018. There was no resolution, ordinance, motion nor other authorization attached to the letters indicating that the Tribal Council had approved such letters, but we have assumed that the same exist or were otherwise authorized by the Tribal Council. The allegations raised in these letters have been thoroughly reviewed and investigated, and the following is the Board of Commissioners' investigation report, findings and conclusions.

ISSUES

A. Credit Card Expenses

A.	5/11/18	Bouncin Bins Rentals	\$196.10
B.	5/17/18	Costco	\$332.77
C.	5/16/18	Carvers	\$296.47
D.	5/28/18	KFC	\$52.80
E.	5/30/18	Sheerwater	\$624.00
F.	5/31/18	Fuel Pumps	\$79.60

II. Texts

No dates provided

III. Alaska Training

- B. Excessive expenses for hotel, rental car, per diem, expenses for non-employees

IV. Playground Equipment (Indian Peaks Band)

- C. Waste of assets of Indian Peaks Band

V. Anonymous Letter

- D. Keith Garcia and Harlan Featherhat

VI. Other Claims

- A. Overpayment of Commissioners' parking
- B. Procurement of Water softeners – claim that UPTHA paid for water softener and didn't receive it, or that the Executive Director received a free water softener
- C. Hostile work environment
- D. Favoritism for Commissioners (including disposition of UPTHA vehicle)

VII. Other Financial Information Requested

- E. UPTHA Financial Statements, Budgets, Etc.

FINDINGS

F. Expenditures on Credit Card

- A. The provider for the rentals was a no-show, so the money was refunded to UPTHA.
- B. Purchase of security system for the Shivwits Band due to criminal activity at the Shivwits trailer, which monies were reimbursed to UPTHA by the Shivwits Band.
- C. Business meeting for procurement of services. Evaluating potential providers of meth clean-up.
- D. Funeral request for tribal members. Policy authorizes up to \$150. The purchase was \$52.80.
- E. Bill Nibblelink traded his consultation services for UPTHA's payment of lunch meeting.
- F. Fuel for the DPP van.

II. Texts

There were no dates on the texts, nor were there names of senders and/or receivers of the texts. The texts do not constitute specific complaints to be able to evaluate and investigate. Without more information, we cannot investigate further. The texts appear to be from disgruntled employees or workers complaining about problems in the office, which are possibly communicated to, with, or about, at least one member of the Tribal Council. The texts seem to indicate that the receiver is trying to obtain incriminating information against UPTHA or its employees. Complaints should proceed up the proper chain of command with UPTHA. We were not given an opportunity to deal with the complaints.

III. Alaska Training

The complaints relate to training expenses that had occurred approximately one (1) week after the actual expenses. This claim is premature, as the [REDACTED] had not been provided sufficient time to obtain his credit card statement and other billings and records to examine and reconcile. Once the records were obtained, there was an appropriate reconciliation completed by the [REDACTED], who paid for expenses that ultimately were not UPTHA's expenses. Bookkeeping adjustments were promptly made for hotel, rental car, per diem, parking, and other expenses not related to the [REDACTED] business expenses.

IV. Playground Equipment

We understand that, many years ago, the Indian Peaks Band left a crate with a swingset at UPTHA's building. The Swingset was purchased over ten years ago for \$1,500 and UPTHA believed the swingset had been abandoned. No efforts had been made by the Band to retrieve the same, and UPTHA basically stored the item for years, without charge. The [REDACTED] disposed of the swingset as excess property after years of it not being utilized. We think it was not necessary to inform the Indian Peaks Band of the planned disposal of the crate/swingset. The set was sold by setting it at a UPTHA yard sale for \$50. The value of the swingset was well under the \$1,000 value that requires competitive quotes for disposition.

V. Anonymous Letter

The anonymous letter provided to the Board of Commissioners raised personnel issues regarding two (2) former employees of UPTHA, [REDACTED] and [REDACTED]. As our attorney stated in his letter dated December 31, 2018, information related to personnel is confidential and privileged, disclosure of which is prohibited by the housing authority rules and Utah law. Notwithstanding, the Board was and is well aware of the issues involving both Mr. [REDACTED] and [REDACTED], and may discuss the same with the Tribal Council in a separate, confidential meeting, pending authorization from the affected discharged employees. Findings related to these former employees are contained in a separate confidential Appendix.

VI. Other Claims

A. TRAVEL: AMERIND conference – April 2018. Once the bills and records of the training at the Marina Del Ray were reconciled, it was determined that a temporary worker had overpaid a couple of the Commissioners \$39 per day for a total of \$156. The Commissioners have repaid UPTHA the monies in full, with verification of repayment by one (1) Commissioner pending. This was merely an oversight that was rectified by the bookkeeping function as the records were reconciled for this training.

B. PROCUREMENT: Water softeners – February 2018. UPTHA obtained, and paid for, two (2) water softeners – one (1) for its current building and one (1) for the former building that it still owns. The [REDACTED] had made contact with potential providers of the water softeners to obtain favorable pricing for UPTHA. However, because there were two (2) water softeners that totaled more than \$5,000, there should have been competitive bidding for such products pursuant to the UPTHA Procurement Policy and federal regulations because it exceeded \$5,000 (cost was \$7,480). The Executive Director did not believe competitive bidding was necessary because the cost of each water softener, by themselves were under \$5,000. However, they were bought at the same time.

ACTION TAKEN: The purchases violated the UPTHA Management Policies and Procedures, Subpart E(1) Procurement. We will address the issue of competitive pricing with the [REDACTED]

C. PERSONNEL – Hostile Work Environment. We have investigated the issue of a hostile work environment, and do not find such claim to be meritorious. You referenced disciplinary actions of [REDACTED] and [REDACTED]. Neither of these individuals were ever employees of UPTHA. They were temporary workers and, as such, were provided limited rights under UPTHA's Personnel Policy. We believe there was no hostile work environment at UPTHA.

In relation to the named employees in the documents you provided to us, as our attorney stated in his letter dated December 31, 2018, information regarding personnel is confidential and privileged, disclosure of which is prohibited by the housing authority rules and Utah law. Notwithstanding, we have investigated the allegations and may discuss the same with the Tribal Council in a separate, confidential meeting, pending authorization from the affected discharged employees. Further, we have prepared a separate confidential Appendix regarding these individuals.

D. BOARD MEMBERS.

1. [REDACTED] did not receive a sprinkler system from UPTHA.

2. [REDACTED] was treated fairly but not inappropriately favored. A former employee was processing her application for housing, but failed to timely provide an acceptable unit. This employee determined there was only one (1) unit available, which unit was next door to a unit where [REDACTED] brother had passed away just months prior. An adequate substitute was properly provided to her through a rental unit on the proposed rehabilitation list that was available and proper to rent.

3. A surplus UPTH A Dodge Durango truck was sold to [REDACTED] UPTH A's long-standing practice, pre-dating [REDACTED] employment, has been to provide staff and Commissioners the first opportunity to purchase surplus or excess vehicles UPTH A would no longer use in its fleet. If none of the staff or Commissioners avail themselves of the opportunity to purchase, then tribal members are afforded such opportunity. If no tribal members avail themselves of the opportunity to purchase, then the opportunity is offered to the general public. Blue Book value was obtained on the Dodge Durango, and paid by [REDACTED] for this vehicle but it was over the UPTH A policy limit for noncompetitive small dispositions (purchase price was 3,600). It had 116,000 miles on it when sold at fair market value.

ACTION TO BE TAKEN: The Sale violated the UPTH A Management and Proceedings, Subpart E(2) Disposition. We will address the issue of competitive pricing with the Executive Director and he will receive a verbal warning/reprimand.

4. [REDACTED] travel to North Dakota was approved, and he attended the regional training in North Dakota. There is no record of a trip to North Dakota that he was paid for, but did not attend.

VII. Other Financial Information Requested

We provide to you, herewith, the requested financial information with the attached flash drives, one for each member of the Tribal Council. Some of the information you requested is not yet available. We have provided to you the financial information that is available, which could involve the Tribe.

CONCLUSIONS

Based upon a thorough investigation, we have concluded that there has been no misuse of monies by the [REDACTED], including issues you raised related to travel authorizations, training information, credit card expenses, text messages, and other information you provided to us.

Secondly, the UPTH A Board does not believe there is a hostile work environment. Any complaints or dissatisfaction with staff should first be addressed by the appropriate supervisor and the Executive Director. Thereafter, the Board of Commissioners should have an opportunity to address any issues that relate to housing. We take our responsibility of supervising the Executive Director very seriously, and will continue to do so, and will continue to act in the best

interests of our tribal members through appropriate housing policies. We have noted some areas of improvement, and will continue to work toward improvement of UPTHA.

Third, a special board meeting was held on December 31, 2018, with Commissioners Betty Cuch (Chairperson), Travis Duran, Toni Kanosh and Halena Bow Blandford present. A motion was made for UPTHA to pay the attorney fees of each of the Commissioners incurred in responding to the allegations set forth by the letters dated November 8, 2018, November 20, 2018 and December 20, 2018. The motion was seconded, and voted upon. The motion passed unanimously. The Board also voted to change its policy to make vehicles going off UPTHA's vehicle fleet available to all tribal members first, and then the general public, with no prior preference to staff or Commissioners.

Finally, request is made that all confidential and privileged information and documentation that was delivered to the Tribal Chairperson be returned to UPTHA immediately, and any copies made thereof be immediately destroyed.

Board of Commissioners
Utah Paiute Tribal Housing Authority



THE PAIUTE INDIAN TRIBE OF UTAH
440 North Paiute Drive • Cedar City, Utah 84721 • (435) 586-1112

RESOLUTION NO. 2019-30

**TRIBAL COUNCIL AUTHORIZATION TO CONTACT LEGAL IN RESPONSE TO THE REQUEST OF
THE OFFICE OF INSPECTOR GENERAL**

- WHEREAS**, the Paiute Indian Tribe of Utah ("Tribe") is a federally recognized Indian tribe under 25 U.S.C. § 761, et seq., organized under the Tribe's Constitution, as ratified by the Tribe on June 11, 1991, and approved by the Secretary of the Interior on July 15, 1991, and amended by the Tribe on August 12, 1997, and approved by the Secretary of the Interior on September 30, 1997, pursuant to Section 16 of the Indian Reorganization Act of June 18, 1934 (48 Stat. 984); and
- WHEREAS**, pursuant to Article IV and Article V of the Constitution of the Paiute Indian Tribe of Utah, the Tribal Council is the official governing body of the Tribe; and
- WHEREAS**, pursuant to Article V, Section 1 of the Constitution of the Paiute Indian Tribe of Utah, the Tribal Council is vested with all executive and legislative powers of the Tribe; and
- WHEREAS**, Article X, Section 2 of the Tribe's Constitution vests the Tribal Council with the authority to take such other action as is necessary to protect the best interests of the Tribe, its members, its employees and its resources; and
- WHEREAS**, in Resolution 2019-19 the Tribal Council determined that "any request for legal services or directive to an attorney must be approved in advance by written resolution of the Tribal Council; and
- WHEREAS**, the Office of Inspector General has called and requests a call back from the Tribal Chairperson; and
- NOW THEREFORE BE IT RESOLVED** that the Tribal Council hereby authorizes the Tribal Chairwoman, Tamra Borchardt-Slayton, to contact the Tribe's legal counsel for the purpose of responding to the request from the Office of Inspector General.

CERTIFICATION

I hereby certify that the foregoing Resolution was fully considered by the Tribal Council at a duly called meeting in Cedar City, Utah, at which a quorum was present and that the same was passed by a vote of 4 in favor, 1 opposed, 0 abstained, and 0 absent this 3rd day of April 2019.

ATTEST:

Carol Garcia, Tribal Council Secretary

Tamra Borchardt-Slayton, Chairperson



THE PAIUTE INDIAN TRIBE OF UTAH

440 North Paiute Drive • Cedar City, Utah 84721 • (435) 586-1112 • Fax (435) 867-2659

INDIAN HOUSING BLOCK GRANT AGREEMENT

1. **PARTIES:** This agreement is between the Paiute Indian Tribe of Utah, hereinafter referred to as the TRIBE, and the Utah Paiute Tribal Housing Authority, hereinafter referred to as the TDHE. The TDHE is the Designated Tribally Designated Housing Authority and an independent contractor, performing services under this sub-award on behalf of the TRIBE in fulfillment of its IHBG grant with HUD. Except as described in this Agreement, the TDHE is not an agent or representative of the TRIBE. The TDHE agrees to notify the TRIBE immediately if claims are made against it in any civil action or proceeding that arises from the performance of this sub-award and to cooperate in good faith to assist in any defense that may be provided by the Department of Justice.
2. **PERIOD:** This agreement is effective upon signature and terminates upon the official close out of the IHBG grant, unless sooner in accordance with the terms and conditions of this agreement and the IHBG granting requirements.
3. **PROPOSAL REVIEW:** The TDHE agrees to give the TRIBE two (2) months to review the proposal and work with the TDHE on any modifications before the proposal is submitted to the funding agency.
4. **PROGRAM MANAGEMENT:** The TDHE acknowledges and understands that:
 - a. The TRIBE is awarded the Grant; and
 - b. The TRIBE is the authorized party for all communications with the granting agency; and
 - c. The TDHE is responsible for following the TRIBE's financial policies and procedures for procurement and OMB Super Circular guidelines on grants and grant management; and
 - d. The TDHE understands that according to 2 CFR 200.319, "*contractors that develop or draft specifications, requirements, statements of work or invitations for bids or requests for proposals must be excluded from competing for such procurements. This restriction applies to contractors that either have provided or will provide these services in connection with the project for which IHBG funding is being provided*";
 - e. Contractors who write or participate in the development of an IHBG proposal are excluded from contracting on an approved contract; and
 - f. Once a proposal is approved, the Project is the TDHE's Project and the TDHE is responsible for carrying out all of Project deliverables, abiding by all terms and conditions in the notice of award, meeting Project timelines, and reporting any variances to the TRIBE in a timely manner that need to be reported to the granting agency; and
 - g. The TDHE will be responsible for procuring contract in accordance with OMB Super Circulars and the TRIBE's Financial Management Policies; and
 - h. The TDHE will be responsible for verifying all potential contractors are not on the debarred or suspended list as detailed in the TRIBE's financial management policy.
 - i. The TDHE is responsible for determining how it will manage the IHBG grant, including compliance with all established budgets, cost limitations, applicable timelines and regulations.
 - j. The TDHE agrees to adhere to the approved timeline it submitted in its proposal. Any delays must be reported and can cause a negative impact on future funding.

Funding. It shall be the responsibility of the TDHE to manage its resources in such a manner as to provide and maintain the level, scope, and quality of services required by this Agreement throughout the term of this Agreement within the budget provided. However, if, at any time during the term of this Agreement, the Tribe becomes aware that it cannot provide the required services for the agreed upon price, it shall immediately so notify the TRIBE. Thereafter, the TDHE shall propose any necessary changes to the scope of work in this Agreement to resolve the TDHE's inability to perform. The parties shall then meet and attempt to reach agreement on how the required services can be provided or whether this Agreement should be terminated. At the time of the meeting, the parties will discuss all options proposed by the Tribe that might be available to resolve the service delivery situation.

The TDHE, as a sub-recipient of Federal financial assistance, agrees to comply with the requirements of all OMB cost circulars as well as the Tribe's financial management policy.

WITNESS WHEREOF, the parties sign and cause the agreement to be executed:

Tamra Borchardt-Slayton Chairwoman Paiute Indian Tribe of Utah	Date	BOC Chairperson	Date
		BOC Vice Chairperson	Date
Tribal Administrator Paiute Indian Tribe of Utah	Date	BOC Council Member	Date
		BOC Council Member	Date
CFO Paiute Indian Tribe of Utah	Date	BOC Secretary	Date